

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1575

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas, and Wyland)

March 12, 2012

An act to amend Sections 1934, 1950.5, 2021, 2064, 2184, 2220, 2424, 2516, 2518, 2904.5, 3057.5, 3742, 3750, 3750.5, 4209, 4600, 4601, 4603.7, 4612, 4980.04, 4980.34, 4980.398, 4980.399, 4980.43, 4980.44, 4980.48, 4980.78, 4980.80, 4984.4, 4989.16, 4989.42, 4992.07, 4992.09, 4996.6, 4999.22, 4999.32, 4999.46, 4999.57, 4999.58, 4999.59, 4999.62, 4999.76, 4999.90, 4999.106, and 4999.120 of, to add ~~Section~~ Sections 144.5, 1902.2, 1942, 1958.1, and 4300.1 to ~~repeal Section~~ 1909.5 of, and to repeal and amend Section 4999.45 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1575, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

(1) Under existing law, specified professions and vocations boards are required to require an applicant to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.

This bill would authorize such a board to request, and would require a local or state agency to provide, certified records of, among other things, all arrests and convictions needed by a board to complete an

applicant or licensee investigation. *By imposing additional duties on local agencies, the bill would impose a state-mandated local program.*

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Dental Board of California within the Department of Consumer Affairs. Existing law establishes the Dental Hygiene Committee of California under the jurisdiction of the board and provides for the licensure and regulation of the practice of dental hygienists by the committee.

This bill would require dental hygienists, upon initial licensure and renewal, to report their employment status to the committee and would require that information to be posted on the committee's Internet Web site. This bill would also require an approval dental hygiene education program to register extramural dental facilities, as defined, with the committee.

Existing law provides that a dental hygienist may have his or her license suspended or revoked by the board for committing acts of unprofessional conduct, as defined.

This bill would include within the definition of unprofessional conduct the aiding or abetting of the unlicensed or unlawful practice of dental hygiene and knowingly failing to follow infection control guidelines, as specified.

Existing law authorizes the committee to deny an application for licensure or to revoke or suspend a license for specified reasons.

This bill would require the committee to deny a license or renewal of a license to any person who is required by law to register as a sex offender.

(2)

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician and surgeon. Existing law provides for the licensure and regulation of the practice of podiatric medicine by the California Board of Podiatric Medicine within the Medical Board of California.

Existing law requires the Medical Board of California and the California Board of Podiatric Medicine to provide written notification by certified mail to any physician and surgeon or podiatrist who does not renew his or her license within 60 days of expiration.

This bill would require the Medical Board of California and the California Board of Podiatric Medicine to provide that written

notification either by certified mail or by electronic mail if requested by the licensee. The bill would require the Medical Board of California to annually send an electronic notice to all licensees and applicants requesting confirmation that his or her electronic mail address is current.

Existing law authorizes the Medical Board of California to take action against all persons guilty of violating the Medical Practice Act. Existing law requires the Medical Board of California to enforce and administer various disciplinary provisions as to physician and surgeon certificate holders.

This bill would specify that those certificate holders include those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders.

(3)

(4) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of the practice of licensed midwifery by the Medical Board of California. A violation of the act is a crime. Under existing law, these licenses are subject to biennial renewal that includes the payment of a specified fee and the completion of specified continuing education.

This bill would exempt a licensee from those renewal requirements if the licensee has applied to the board and has been issued a retired status license. The bill would prohibit the holder of a retired status license from engaging in the practice of midwifery. Because a violation of that prohibition would constitute a crime, the bill would impose a state-mandated local program.

(4)

(5) Existing law, the Psychology Licensing Law, provides for the licensure and regulation of psychologists by the Board of Psychology. Existing law provides that a licensed psychologist is a health care practitioner for purposes of specified telehealth provisions that concern the delivery of health care via information and communication technologies.

This bill would instead provide that a licensed psychologist is a health care provider subject to those telehealth provisions.

(5)

(6) Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory care by the Respiratory Care Board of California.

Under existing law, during the period of any clinical training, a student respiratory care practitioner is required to be under the direct supervision, as defined, of a person holding a valid and current license.

This bill would require such a student to be under the direct supervision of a person with a valid, current, and unrestricted license.

Existing law authorizes the board to order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license for specified causes including a pattern of substandard care.

This bill would expand that provision to also include negligence in the licensee's practice as a respiratory care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager or health facility owner, or as a party responsible for the care of another.

Existing law authorizes the board to deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has obtained, possessed, used, or administered to himself or herself, or furnished or administered to another, any controlled substances or dangerous drug, except as directed by a specified health care provider.

This bill would also make illegally possessing any associated paraphernalia a ground for the denial, suspension, placing on probation, or revocation of a license.

(7) Existing law, the Pharmacy Law, provides for the California State Board of Pharmacy within the Department of Consumer Affairs, to license and regulate the practice of pharmacy.

Existing law authorizes the board to suspend or revoke a license if the holder has been convicted of certain crimes or has engaged in unprofessional conduct, as specified.

This bill would modify the practice requirements applicable to intern pharmacists. The bill would also provide that the board continues to have jurisdiction in a disciplinary action against a licensee, even if the license is expired, cancelled, forfeited, suspended, revoked, placed on retired status, or voluntarily surrendered.

(8) Existing law provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law provides specified educational and other requirements for an applicant to obtain a massage therapy certificate.

This bill would set minimum educational hour and course requirements for an applicant to qualify to receive a massage therapy certificate. The bill would also define "operator of a massage business" for purposes of these provisions.

Existing law requires a certificate holder to display the certificate at his or her place of business.

This bill would require the certificate holder to display the original certificate at his or her place of business and to have the identification card, issued by the council, with him or her whenever providing massage therapy services. This bill would also require a massage therapist to surrender his or her identification card when his or her certificate is suspended or revoked.

Existing law authorizes a city, county, or city and county to require background checks of certain uncertified owners or operators of massage therapy establishments.

This bill would authorize that background check to include a criminal background check, including submission of fingerprints and employment history for the 10 preceding years.

Existing law authorizes a city, county, or city and county to charge certain massage businesses or establishments a business licensing fee, provided that the fee charged is no different than what is uniformly applied to other individuals and businesses providing professional services, as specified.

The bill would require that the licensing fee charged to massage businesses or establishments be no higher than those charged to other professions. The bill would also prohibit a city, county, or city and county from requesting information from those businesses or establishments that is different from that requested of others providing professional services.

~~(6)~~

(9) Under existing law, the Board of Behavioral Sciences is responsible for the licensure and regulation of marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors.

Under existing law, a license that is not renewed within 3 years after its expiration may not be renewed. However, the former licensee is authorized to apply for and obtain a new license if certain requirements are met, including, but not limited to, passing one or more current licensing examinations, as specified and submitting certain fees.

This bill would additionally require a former licensee to comply with the fingerprint requirements established by board regulation or as directed by the board. *The bill would make other technical and clarifying changes.*

~~(A)~~

(10) Existing law, the Marriage and Family Therapist Act, with respect to applicants for licensure or registration by reciprocity or for those applicants who obtained education or experience outside of California that apply on and after January 1, 2014, existing law provides that education is substantially equivalent if certain requirements are met, including the completion of a course in California law and professional ethics.

This bill would require that course to be 18 hours in length.

For persons who apply for licensure between January 1, 2010, and December 31, 2013, existing law authorizes the board to issue a license to a person who holds a valid license from another state if certain requirements are met, including the completion of specified coursework or training. Existing law provides that an applicant who completed a specified course in law and professional ethics is required to complete an 18-hour course in California law and professional ethics.

This bill would instead specify that an 18-hour course in California law and professional ethics is only required if the above specified course in law and professional ethics does not meet certain requirements. *The bill would make other technical changes to those provisions.*

The bill would rename the act as the Licensed Marriage and Family Therapist Act.

(B)

(11) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of the practice of professional clinical counseling by the Board of Behavioral Sciences.

Under existing law, to qualify for registration, an intern applicant is required to meet certain qualifications. With respect to applicants for registration who began graduate study before August 1, 2012, and complete study on or before December 31, 2018, an applicant is required to complete a minimum of 18 contact hours of instruction in California law and professional ethics prior to registration as an intern.

This bill would describe the content of that instruction for professional clinical counselors.

Existing law authorizes the board to refuse to issue any registration or license, or to suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct that includes, but is not limited to, the conviction of more than one misdemeanor or any felony involving the use, consumption, or

self-administration of any of specified substances, or any combination thereof.

This bill would delete the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of specified substances, or any combination thereof, from the list of what constitutes professional conduct. The bill would make it unprofessional conduct to willfully violate specified provisions governing patient access to health care records.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 144.5 is added to the Business and
- 2 Professions Code, to read:
- 3 144.5. Notwithstanding any other provision of law, a board
- 4 described in Section 144 may request a local or state agency to
- 5 provide certified records of all arrests and convictions, certified
- 6 records regarding probation, and any and all other related
- 7 documentation needed to complete an applicant or licensee
- 8 investigation. The local or state agency shall provide those records
- 9 to the board upon receipt of such a request.
- 10 SEC. 2. Section 1902.2 is added to the Business and Professions
- 11 Code, to read:

1 1902.2. (a) A licensee shall report, upon his or her initial
2 licensure and any subsequent application for renewal or inactive
3 license, the practice or employment status of the licensee,
4 designated as one of the following:

5 (1) Full-time practice or employment in a dental or dental
6 hygiene practice of 32 hours per week or more in California.

7 (2) Full-time practice or employment in a dental or dental
8 hygiene practice of 32 hours or more outside of California.

9 (3) Part-time practice or employment in a dental or dental
10 hygiene practice for less than 32 hours per week in California.

11 (4) Part-time practice or employment in a dental or dental
12 hygiene practice for less than 32 hours per week outside of
13 California.

14 (5) Dental hygiene administrative employment that does not
15 include direct patient care, as may be further defined by the
16 committee.

17 (6) Retired.

18 (7) Other practice or employment status, as may be further
19 defined by the committee.

20 (b) Information collected pursuant to subdivision (a) shall be
21 posted on the Internet Web site of the committee.

22 (c) (1) A licensee may report on his or her application for
23 renewal, and the committee, as appropriate, shall collect,
24 information regarding the licensee's cultural background and
25 foreign language proficiency.

26 (2) Information collected pursuant to this subdivision shall be
27 aggregated on an annual basis, based on categories utilized by
28 the committee in the collection of the data, into both statewide
29 totals and ZIP Code of primary practice or employment location
30 totals.

31 (3) Aggregated information under this subdivision shall be
32 compiled annually, and reported on the Internet Web site of the
33 committee as appropriate, on or before July 1 of each year.

34 (d) It is the intent of the Legislature to utilize moneys in the
35 State Dental Hygiene Fund to pay any cost incurred by the
36 committee in implementing this section.

37 SEC. 3. Section 1909.5 of the Business and Professions Code
38 is repealed.

39 ~~1909.5. Courses of instruction for direct supervision duties~~
40 ~~added to the scope of practice of dental hygiene on or after July~~

1 ~~1, 2009, shall be submitted by the committee for approval by the~~
2 ~~dental board.~~

3 *SEC. 4. Section 1934 of the Business and Professions Code is*
4 *amended to read:*

5 1934. A licensee who changes his or her *physical* address of
6 record *or e-mail address* shall notify the committee within 30 days
7 of the change. A licensee who changes his or her legal name shall
8 provide the committee with documentation of the change within
9 10 days.

10 *SEC. 5. Section 1942 is added to the Business and Professions*
11 *Code, to read:*

12 1942. (a) *As used in this section “extramural dental facility”*
13 *means any clinical facility employed by an approved dental hygiene*
14 *educational program for instruction in dental hygiene that exists*
15 *outside or beyond the walls, boundaries, or precincts of the primary*
16 *campus of the approved program and in which dental hygiene*
17 *services are rendered.*

18 (b) *An approved dental hygiene educational program shall*
19 *register extramural dental facilities with the committee. The*
20 *registration shall be accompanied by information supplied by the*
21 *dental hygiene program pertaining to faculty supervision, scope*
22 *of treatment to be rendered, name and location of the facility, date*
23 *operation will commence, discipline of which such instruction is*
24 *a part, and a brief description of the equipment and facilities*
25 *available. That information shall be supplemented by a copy of*
26 *the agreement between the approved dental hygiene educational*
27 *program or parent university and the affiliated institution*
28 *establishing the contractual relationship. Any change in the*
29 *information provided to the committee shall be communicated to*
30 *the committee.*

31 *SEC. 6. Section 1950.5 of the Business and Professions Code*
32 *is amended to read:*

33 1950.5. Unprofessional conduct by a person licensed under
34 this article is defined as, but is not limited to, any one of the
35 following:

36 (a) The obtaining of any fee by fraud or misrepresentation.

37 (b) The aiding or abetting of any unlicensed person to practice
38 dentistry *or dental hygiene*.

39 (c) The aiding or abetting of a licensed person to practice
40 dentistry *or dental hygiene* unlawfully.

1 (d) The committing of any act or acts of sexual abuse,
2 misconduct, or relations with a patient that are substantially related
3 to the practice of dental hygiene.

4 (e) The use of any false, assumed, or fictitious name, either as
5 an individual, firm, corporation, or otherwise, or any name other
6 than the name under which he or she is licensed to practice, in
7 advertising or in any other manner indicating that he or she is
8 practicing or will practice dentistry, except that name as is specified
9 in a valid permit issued pursuant to Section ~~1701.5~~ 1962.

10 (f) The practice of accepting or receiving any commission or
11 the rebating in any form or manner of fees for professional services,
12 ~~radiograms~~ *radiographs*, prescriptions, or other services or articles
13 supplied to patients.

14 (g) The making use by the licensee or any agent of the licensee
15 of any advertising statements of a character tending to deceive or
16 mislead the public.

17 (h) The advertising of either professional superiority or the
18 advertising of performance of professional services in a superior
19 manner. This subdivision shall not prohibit advertising permitted
20 by subdivision (h) of Section 651.

21 (i) The employing or the making use of solicitors.

22 (j) Advertising in violation of Section 651.

23 (k) Advertising to guarantee any dental hygiene service, or to
24 perform any dental hygiene procedure painlessly. This subdivision
25 shall not prohibit advertising permitted by Section 651.

26 (l) The violation of any of the provisions of this division.

27 (m) The permitting of any person to operate dental radiographic
28 equipment who has not met the requirements ~~of Section 1656~~ *to*
29 *do so, as determined by the committee.*

30 (n) The clearly excessive administering of drugs or treatment,
31 or the clearly excessive use of treatment procedures, or the clearly
32 excessive use of treatment facilities, as determined by the
33 customary practice and standards of the dental hygiene profession.

34 Any person who violates this subdivision is guilty of a
35 misdemeanor and shall be punished by a fine of not less than one
36 hundred dollars (\$100) or more than six hundred dollars (\$600),
37 or by imprisonment for a term of not less than 60 days or more
38 than 180 days, or by both a fine and imprisonment.

39 (o) The use of threats or harassment against any patient or
40 licensee for providing evidence in any possible or actual

1 disciplinary action, or other legal action; or the discharge of an
2 employee primarily based on the employee's attempt to comply
3 with the provisions of this chapter or to aid in the compliance.

4 (p) Suspension or revocation of a license issued, or discipline
5 imposed, by another state or territory on grounds that would be
6 the basis of discipline in this state.

7 (q) The alteration of a patient's record with intent to deceive.

8 (r) Unsanitary or unsafe office conditions, as determined by the
9 customary practice and standards of the dental hygiene profession.

10 (s) The abandonment of the patient by the licensee, without
11 written notice to the patient that treatment is to be discontinued
12 and before the patient has ample opportunity to secure the services
13 of another registered dental hygienist, registered dental hygienist
14 in alternative practice, or registered dental hygienist in extended
15 functions and provided the health of the patient is not jeopardized.

16 (t) The willful misrepresentation of facts relating to a
17 disciplinary action to the patients of a disciplined licensee.

18 (u) Use of fraud in the procurement of any license issued
19 pursuant to this article.

20 (v) Any action or conduct that would have warranted the denial
21 of the license.

22 (w) The aiding or abetting of a registered dental hygienist,
23 registered dental hygienist in alternative practice, or registered
24 dental hygienist in extended functions to practice dental hygiene
25 in a negligent or incompetent manner.

26 (x) The failure to report to the committee in writing within seven
27 days any of the following: (1) the death of his or her patient during
28 the performance of any dental hygiene procedure; (2) the discovery
29 of the death of a patient whose death is related to a dental hygiene
30 procedure performed by him or her; or (3) except for a scheduled
31 hospitalization, the removal to a hospital or emergency center for
32 medical treatment for a period exceeding 24 hours of any patient
33 as a result of dental or dental hygiene treatment. Upon receipt of
34 a report pursuant to this subdivision, the committee may conduct
35 an inspection of the dental hygiene practice office if the committee
36 finds that it is necessary.

37 (y) A registered dental hygienist, registered dental hygienist in
38 alternative practice, or registered dental hygienist in extended
39 functions shall report to the committee all deaths occurring in his
40 or her practice with a copy sent to the dental board if the death

1 occurred while working as an employee in a dental office. A dentist
2 shall report to the dental board all deaths occurring in his or her
3 practice with a copy sent to the committee if the death was the
4 result of treatment by a registered dental hygienist, registered dental
5 hygienist in alternative practice, or registered dental hygienist in
6 extended functions.

7 *(z) Except for good cause, the knowing failure to protect patients*
8 *by failing to follow infection control guidelines of the committee,*
9 *thereby risking transmission of infectious diseases from dental*
10 *assistant, registered dental assistant, registered dental hygienist,*
11 *registered dental hygienist in alternative practice, or registered*
12 *dental hygienist in extended functions to patient, from patient to*
13 *patient, and from patient to dental assistant, registered dental*
14 *assistant, registered dental hygienist, registered dental hygienist*
15 *in alternative practice, or registered dental hygienist in extended*
16 *functions. In administering this subdivision, the committee shall*
17 *consider referencing the standards, regulations, and guidelines*
18 *of the State Department of Public Health developed pursuant to*
19 *Section 1250.11 of the Health and Safety Code, and the standards,*
20 *guidelines, and regulations pursuant to the California*
21 *Occupational Safety and Health Act of 1973 (Part 1 (commencing*
22 *with Section 6300) of Division 5 of the Labor Code) for preventing*
23 *the transmission of HIV, hepatitis B, and other pathogens in health*
24 *care settings. The committee shall review infection control*
25 *guidelines, if necessary, on an annual basis and proposed changes*
26 *shall be reviewed by the dental board to establish a consensus.*
27 *The dental board shall submit any recommended changes to the*
28 *infection control guidelines for review to establish a consensus.*
29 *As necessary, the committee shall consult with the Medical Board*
30 *of California, the California Board of Podiatric Medicine, the*
31 *Board of Registered Nursing, and the Board of Vocational Nursing*
32 *and Psychiatric Technicians, to encourage appropriate consistency*
33 *in the implementation of this subdivision.*

34 SEC. 7. Section 1958.1 is added to the Business and Professions
35 Code, to read:

36 1958.1. (a) Notwithstanding any other law, with regard to an
37 individual who is required to register as a sex offender pursuant
38 to Section 290 of the Penal Code, or the equivalent in another
39 state or territory, under military law, or under federal law, all of
40 the following shall apply:

1 (1) *The committee shall deny an application by the individual*
2 *for licensure pursuant to this article.*

3 (2) *If the individual is licensed under this article, the committee*
4 *shall promptly revoke the license of the individual. The committee*
5 *shall not stay the revocation nor place the license on probation.*

6 (3) *The committee shall not reinstate or reissue the individual's*
7 *licensure under this article. The committee shall not issue a stay*
8 *of license denial and place the license on probation.*

9 (b) *This section shall not apply to any of the following:*

10 (1) *An individual who has been relieved under Section 290.5 of*
11 *the Penal Code of his or her duty to register as a sex offender, or*
12 *whose duty to register has otherwise been formally terminated*
13 *under California law or the law of the jurisdiction that requires*
14 *his or her registration as a sex offender.*

15 (2) *An individual who is required to register as a sex offender*
16 *pursuant to Section 290 of the Penal Code solely because of a*
17 *misdemeanor conviction under Section 314 of the Penal Code.*
18 *However, nothing in this paragraph shall prohibit the committee*
19 *from exercising its discretion to discipline a licensee under other*
20 *provisions of state law based upon the licensee's conviction under*
21 *Section 314 of the Penal Code.*

22 (3) *Any administrative adjudication proceeding under Chapter*
23 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*
24 *2 of the Government Code that is fully adjudicated prior to January*
25 *1, 2013. A petition for reinstatement of a revoked or surrendered*
26 *license shall be considered a new proceeding for purposes of this*
27 *paragraph, and the prohibition against reinstating a license to an*
28 *individual who is required to register as a sex offender shall be*
29 *applicable.*

30 ~~SEC. 2.~~

31 SEC. 8. Section 2021 of the Business and Professions Code is
32 amended to read:

33 2021. (a) If the board publishes a directory pursuant to Section
34 112, it may require persons licensed pursuant to this chapter to
35 furnish any information as it may deem necessary to enable it to
36 compile the directory.

37 (b) Each licensee shall report to the board each and every change
38 of address within 30 days after each change, giving both the old
39 and new address. If an address reported to the board at the time of
40 application for licensure or subsequently is a post office box, the

1 applicant shall also provide the board with a street address. If
2 another address is the licensee's address of record, he or she may
3 request that the second address not be disclosed to the public.

4 (c) Each licensee shall report to the board each and every change
5 of name within 30 days after each change, giving both the old and
6 new names.

7 (d) The board shall annually send an electronic notice to each
8 applicant and licensee who has chosen to receive correspondence
9 via electronic mail that requests confirmation from the applicant
10 or licensee that his or her electronic mail address is current. An
11 applicant or licensee that does not confirm his or her electronic
12 mail address shall receive correspondence at a mailing address
13 provided pursuant to subdivision (b).

14 ~~SEC. 3.~~

15 *SEC. 9.* Section 2064 of the Business and Professions Code is
16 amended to read:

17 2064. Nothing in this chapter shall be construed to prevent a
18 regularly matriculated student undertaking a course of professional
19 instruction in an approved medical school, or to prevent a foreign
20 medical student who is enrolled in an approved medical school or
21 clinical training program in this state, or to prevent students
22 enrolled in a program of supervised clinical training under the
23 direction of an approved medical school pursuant to Section 2104,
24 from engaging in the practice of medicine whenever and wherever
25 prescribed as a part of his or her course of study.

26 ~~SEC. 4.~~

27 *SEC. 10.* Section 2184 of the Business and Professions Code
28 is amended to read:

29 2184. (a) Each applicant shall obtain on the written
30 examination a passing score, established by the board pursuant to
31 Section 2177.

32 (b) (1) Passing scores on each step of the United States Medical
33 Licensing Examination shall be valid for a period of 10 years from
34 the month of the examination for purposes of qualification for
35 licensure in California.

36 (2) The period of validity provided for in paragraph (1) may be
37 extended by the board for any of the following:

38 (A) For good cause.

39 (B) For time spent in a postgraduate training program, including,
40 but not limited to, residency training, clinical training, fellowship

1 training, remedial or refresher training, or other training that is
2 intended to maintain or improve medical skills.

3 (C) For an applicant who is a physician and surgeon in another
4 state or a Canadian province who is currently and actively
5 practicing medicine in that state or province.

6 (3) Upon expiration of the 10-year period plus any extension
7 granted by the board under paragraph (2), the applicant shall pass
8 the Special Purpose Examination of the Federation of State Medical
9 Boards or a clinical competency written examination determined
10 by the board to be equivalent.

11 ~~SEC. 5.~~

12 *SEC. 11.* Section 2220 of the Business and Professions Code
13 is amended to read:

14 2220. Except as otherwise provided by law, the board may
15 take action against all persons guilty of violating this chapter. The
16 board shall enforce and administer this article as to physician and
17 surgeon certificate holders, including those who hold certificates
18 that do not permit them to practice medicine, such as, but not
19 limited to, retired, inactive, or disabled status certificate holders,
20 and the board shall have all the powers granted in this chapter for
21 these purposes including, but not limited to:

22 (a) Investigating complaints from the public, from other
23 licensees, from health care facilities, or from the board that a
24 physician and surgeon may be guilty of unprofessional conduct.
25 The board shall investigate the circumstances underlying a report
26 received pursuant to Section 805 or 805.01 within 30 days to
27 determine if an interim suspension order or temporary restraining
28 order should be issued. The board shall otherwise provide timely
29 disposition of the reports received pursuant to Section 805 and
30 Section 805.01.

31 (b) Investigating the circumstances of practice of any physician
32 and surgeon where there have been any judgments, settlements,
33 or arbitration awards requiring the physician and surgeon or his
34 or her professional liability insurer to pay an amount in damages
35 in excess of a cumulative total of thirty thousand dollars (\$30,000)
36 with respect to any claim that injury or damage was proximately
37 caused by the physician's and surgeon's error, negligence, or
38 omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

~~SEC. 6.~~

SEC. 12. Section 2424 of the Business and Professions Code is amended to read:

2424. (a) The board or the California Board of Podiatric Medicine, as the case may be, shall notify in writing either by certified mail, return receipt requested, or by electronic mail if requested by the licensee, any physician and surgeon or any podiatrist who does not renew his or her license within 60 days from its date of expiration.

(b) Notwithstanding Section 163.5, any such licensee who does not renew his or her expired license within 90 days of its date of expiration shall pay all the following fees:

(1) The renewal fee in effect at the time of renewal.

(2) A penalty fee equal to 50 percent of the renewal fee.

(3) The delinquency fee required by Section 2435 or 2499.5, as the case may be.

(c) Notwithstanding any other provision of law, the renewal of any expired physician's and surgeon's or podiatrist's license within six months from its date of expiration shall be retroactive to the date of expiration of that license. The division or board, for good cause, may waive the 50 percent penalty fee and may extend retroactivity up to two years from the expiration date of any such license.

~~SEC. 7.~~

SEC. 13. Section 2516 of the Business and Professions Code is amended to read:

2516. (a) Each licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted no later than March 30, with the first report due in March 2008, for the prior calendar year, in a form specified by the board and shall contain all of the following:

(1) The midwife's name and license number.

(2) The calendar year being reported.

(3) The following information with regard to cases in California in which the midwife, or the student midwife supervised by the

1 midwife, assisted during the previous year when the intended place
2 of birth at the onset of care was an out-of-hospital setting:

3 (A) The total number of clients served as primary caregiver at
4 the onset of care.

5 (B) The total number of clients served with collaborative care
6 available through, or given by, a licensed physician and surgeon.

7 (C) The total number of clients served under the supervision of
8 a licensed physician and surgeon.

9 (D) The number by county of live births attended as primary
10 caregiver.

11 (E) The number, by county, of cases of fetal demise, infant
12 deaths, and maternal deaths attended as primary caregiver at the
13 discovery of the demise or death.

14 (F) The number of women whose primary care was transferred
15 to another health care practitioner during the antepartum period,
16 and the reason for each transfer.

17 (G) The number, reason, and outcome for each elective hospital
18 transfer during the intrapartum or postpartum period.

19 (H) The number, reason, and outcome for each urgent or
20 emergency transport of an expectant mother in the antepartum
21 period.

22 (I) The number, reason, and outcome for each urgent or
23 emergency transport of an infant or mother during the intrapartum
24 or immediate postpartum period.

25 (J) The number of planned out-of-hospital births at the onset of
26 labor and the number of births completed in an out-of-hospital
27 setting.

28 (K) The number of planned out-of-hospital births completed in
29 an out-of-hospital setting that were any of the following:

30 (i) Twin births.

31 (ii) Multiple births other than twin births.

32 (iii) Breech births.

33 (iv) Vaginal births after the performance of a cesarean section.

34 (L) A brief description of any complications resulting in the
35 morbidity or mortality of a mother or a neonate.

36 (M) Any other information prescribed by the board in
37 regulations.

38 (b) The Office of Statewide Health Planning and Development
39 shall maintain the confidentiality of the information submitted
40 pursuant to this section, and shall not permit any law enforcement

1 or regulatory agency to inspect or have copies made of the contents
2 of any reports submitted pursuant to subdivision (a) for any
3 purpose, including, but not limited to, investigations for licensing,
4 certification, or regulatory purposes.

5 (c) The office shall report to the board, by April 30, those
6 licensees who have met the requirements of subdivision (a) for
7 that year.

8 (d) The board shall send a written notice of noncompliance to
9 each licensee who fails to meet the reporting requirement of
10 subdivision (a). Failure to comply with subdivision (a) will result
11 in the midwife being unable to renew his or her license without
12 first submitting the requisite data to the Office of Statewide Health
13 Planning and Development for the year for which that data was
14 missing or incomplete. The board shall not take any other action
15 against the licensee for failure to comply with subdivision (a).

16 (e) The board, in consultation with the office and the Midwifery
17 Advisory Council, shall devise a coding system related to data
18 elements that require coding in order to assist in both effective
19 reporting and the aggregation of data pursuant to subdivision (f).
20 The office shall utilize this coding system in its processing of
21 information collected for purposes of subdivision (f).

22 (f) The office shall report the aggregate information collected
23 pursuant to this section to the board by July 30 of each year. The
24 board shall include this information in its annual report to the
25 Legislature.

26 (g) Notwithstanding any other provision of law, a violation of
27 this section shall not be a crime.

28 ~~SEC. 8.~~

29 *SEC. 14.* Section 2518 of the Business and Professions Code
30 is amended to read:

31 2518. (a) Licenses issued pursuant to this article shall be
32 renewable every two years upon payment of the fee prescribed by
33 Section 2520 and submission of documentation that the
34 licenseholder has completed 36 hours of continuing education in
35 areas that fall within the scope of the practice of midwifery, as
36 specified by the board.

37 (b) Each license not renewed shall expire, but may be reinstated
38 within five years from the expiration upon payment of the
39 prescribed fee and upon submission of proof of the applicant's
40 qualifications as the board may require.

(c) A licensee is exempt from the payment of the renewal fee required by Section 2520 and the requirement for continuing education if the licensee has applied to the board for, and been issued, a retired status license. The holder of a retired status license may not engage in the practice of midwifery.

~~SEC. 9.~~

SEC. 15. Section 2904.5 of the Business and Professions Code is amended to read:

2904.5. A psychologist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care provider subject to the provisions of Section 2290.5.

~~SEC. 10.~~

SEC. 16. Section 3057.5 of the Business and Professions Code is amended to read:

3057.5. Notwithstanding any other provision of this chapter, the board shall permit a graduate of a foreign university who meets all of the following requirements to take the examinations for a certificate of registration as an optometrist:

- (a) Is over the age of 18 years.
- (b) Is not subject to denial of a certificate under Section 480.
- (c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

~~SEC. 11.~~

SEC. 17. Section 3742 of the Business and Professions Code is amended to read:

3742. During the period of any clinical training, a student respiratory care practitioner shall be under the direct supervision of a person holding a valid, current, and unrestricted license issued under this chapter. "Under the direct supervision" means assigned to a respiratory care practitioner who is on duty and immediately available in the assigned patient care area.

~~SEC. 12.~~

SEC. 18. Section 3750 of the Business and Professions Code is amended to read:

3750. The board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

- (a) Advertising in violation of Section 651 or Section 17500.
- (b) Fraud in the procurement of any license under this chapter.

1 (c) Knowingly employing unlicensed persons who present
2 themselves as licensed respiratory care practitioners.

3 (d) Conviction of a crime that substantially relates to the
4 qualifications, functions, or duties of a respiratory care practitioner.
5 The record of conviction or a certified copy thereof shall be
6 conclusive evidence of the conviction.

7 (e) Impersonating or acting as a proxy for an applicant in any
8 examination given under this chapter.

9 (f) Negligence in his or her practice as a respiratory care
10 practitioner.

11 (g) Conviction of a violation of any of the provisions of this
12 chapter or of any provision of Division 2 (commencing with
13 Section 500), or violating, or attempting to violate, directly or
14 indirectly, or assisting in or abetting the violation of, or conspiring
15 to violate any provision or term of this chapter or of any provision
16 of Division 2 (commencing with Section 500).

17 (h) The aiding or abetting of any person to violate this chapter
18 or any regulations duly adopted under this chapter.

19 (i) The aiding or abetting of any person to engage in the unlawful
20 practice of respiratory care.

21 (j) The commission of any fraudulent, dishonest, or corrupt act
22 which is substantially related to the qualifications, functions, or
23 duties of a respiratory care practitioner.

24 (k) Falsifying, or making grossly incorrect, grossly inconsistent,
25 or unintelligible entries in any patient, hospital, or other record.

26 (l) Changing the prescription of a physician and surgeon, or
27 falsifying verbal or written orders for treatment or a diagnostic
28 regime received, whether or not that action resulted in actual patient
29 harm.

30 (m) Denial, suspension, or revocation of any license to practice
31 by another agency, state, or territory of the United States for any
32 act or omission that would constitute grounds for the denial,
33 suspension, or revocation of a license in this state.

34 (n) Except for good cause, the knowing failure to protect patients
35 by failing to follow infection control guidelines of the board,
36 thereby risking transmission of blood-borne infectious diseases
37 from licensee to patient, from patient to patient, and from patient
38 to licensee. In administering this subdivision, the board shall
39 consider referencing the standards, regulations, and guidelines of
40 the State Department of Health Services developed pursuant to

1 Section 1250.11 of the Health and Safety Code and the standards,
2 regulations, and guidelines pursuant to the California Occupational
3 Safety and Health Act of 1973 (Part 1 (commencing with Section
4 6300) of Division 5 of the Labor Code) for preventing the
5 transmission of HIV, hepatitis B, and other blood-borne pathogens
6 in health care settings. As necessary, the board shall consult with
7 the California Medical Board, the Board of Podiatric Medicine,
8 the Board of Dental Examiners, the Board of Registered Nursing,
9 and the Board of Vocational Nursing and Psychiatric Technicians,
10 to encourage appropriate consistency in the implementation of this
11 subdivision.

12 The board shall seek to ensure that licensees are informed of the
13 responsibility of licensees and others to follow infection control
14 guidelines, and of the most recent scientifically recognized
15 safeguards for minimizing the risk of transmission of blood-borne
16 infectious diseases.

17 (o) Incompetence in his or her practice as a respiratory care
18 practitioner.

19 (p) A pattern of substandard care or negligence in his or her
20 practice as a respiratory care practitioner, or in any capacity as a
21 health care worker, consultant, supervisor, manager or health
22 facility owner, or as a party responsible for the care of another.

23 ~~SEC. 13.~~

24 *SEC. 19.* Section 3750.5 of the Business and Professions Code
25 is amended to read:

26 3750.5. In addition to any other grounds specified in this
27 chapter, the board may deny, suspend, place on probation, or
28 revoke the license of any applicant or licenseholder who has done
29 any of the following:

30 (a) Obtained, possessed, used, or administered to himself or
31 herself in violation of law, or furnished or administered to another,
32 any controlled substances as defined in Division 10 (commencing
33 with Section 11000) of the Health and Safety Code, or any
34 dangerous drug as defined in Article 2 (commencing with Section
35 4015) of Chapter 9, except as directed by a licensed physician and
36 surgeon, dentist, podiatrist, or other authorized health care provider,
37 or illegally possessed any associated paraphernalia.

38 (b) Used any controlled substance as defined in Division 10
39 (commencing with Section 11000) of the Health and Safety Code,
40 or any dangerous drug as defined in Article 2 (commencing with

1 Section 4015) of Chapter 9 of this code, or alcoholic beverages,
2 to an extent or in a manner dangerous or injurious to himself or
3 herself, or to others, or that impaired his or her ability to conduct
4 with safety the practice authorized by his or her license.

5 (c) Applied for employment or worked in any health care
6 profession or environment while under the influence of alcohol.

7 (d) Been convicted of a criminal offense involving the
8 consumption or self-administration of any of the substances
9 described in subdivisions (a) and (b), or the possession of, or
10 falsification of a record pertaining to, the substances described in
11 subdivision (a), in which event the record of the conviction is
12 conclusive evidence thereof.

13 (e) Been committed or confined by a court of competent
14 jurisdiction for intemperate use of or addiction to the use of any
15 of the substances described in subdivisions (a), (b), and (c), in
16 which event the court order of commitment or confinement is
17 prima facie evidence of that commitment or confinement.

18 (f) Falsified, or made grossly incorrect, grossly inconsistent, or
19 unintelligible entries in any hospital, patient, or other record
20 pertaining to the substances described in subdivision (a).

21 *SEC. 20. Section 4209 of the Business and Professions Code*
22 *is amended to read:*

23 4209. (a) (1) An intern pharmacist shall complete 1,500 hours
24 of pharmacy practice before applying for the pharmacist licensure
25 examination.

26 (2) This pharmacy practice shall comply with the Standards of
27 Curriculum established by the Accreditation Council for Pharmacy
28 Education or with regulations adopted by the board.

29 (b) An intern pharmacist shall submit proof of his or her
30 experience on board-approved affidavits, or another form specified
31 by the board, which shall be certified under penalty of perjury by
32 a pharmacist under whose supervision such experience was
33 obtained or by the pharmacist-in-charge at the pharmacy while the
34 pharmacist intern obtained the experience. *Intern hours earned in*
35 *another state may be certified by the licensing agency of that state*
36 *to document proof of those hours.*

37 (c) An applicant for the examination who has been licensed as
38 a pharmacist in any state for at least one year, as certified by the
39 licensing agency of that state, may submit this certification to
40 satisfy the required 1,500 hours of intern experience, *provided that*

1 *the applicant has obtained a minimum of 900 hours of pharmacy*
2 *practice experience in a pharmacy as a pharmacist. Certification*
3 *of an applicant's licensure in another state shall be submitted in*
4 *writing and signed, under oath, by a duly authorized official of the*
5 *state in which the license is held.*

6 *SEC. 21. Section 4300.1 is added to the Business and*
7 *Professions Code, to read:*

8 *4300.1. The expiration, cancellation, forfeiture, or suspension*
9 *of a board-issued license by operation of law or by order or*
10 *decision of the board or a court of law, the placement of a license*
11 *on a retired status, or the voluntary surrender of a license by a*
12 *licensee shall not deprive the board of jurisdiction to commence*
13 *or proceed with any investigation of, or action or disciplinary*
14 *proceeding against, the licensee or to render a decision suspending*
15 *or revoking the license.*

16 *SEC. 22. Section 4600 of the Business and Professions Code*
17 *is amended to read:*

18 *4600. As used in this chapter, the following terms shall have*
19 *the following meanings:*

20 (a) "Approved school" or "approved massage school" means a
21 school approved by the council that meets minimum standards for
22 training and curriculum in massage and related subjects and that
23 meets any of the following requirements:

24 (1) Is approved by the Bureau for Private Postsecondary
25 Education.

26 (2) Is approved by the Department of Consumer Affairs.

27 (3) Is an institution accredited by the Accrediting Commission
28 for Senior Colleges and Universities or the Accrediting
29 Commission for Community and Junior Colleges of the Western
30 Association of Schools and Colleges and that is one of the
31 following:

32 (A) A public institution.

33 (B) An institution incorporated and lawfully operating as a
34 nonprofit public benefit corporation pursuant to Part 2
35 (commencing with Section 5110) of Division 2 of Title 1 of the
36 Corporations Code, and that is not managed by any entity for profit.

37 (C) A for-profit institution.

38 (D) An institution that does not meet all of the criteria in
39 subparagraph (B) that is incorporated and lawfully operating as a
40 nonprofit public benefit corporation pursuant to Part 2

1 (commencing with Section 5110) of Division 2 of Title 1 of the
2 Corporations Code, that has been in continuous operation since
3 April 15, 1997, and that is not managed by any entity for profit.

4 (4) Is a college or university of the state higher education system,
5 as defined in Section 100850 of the Education Code.

6 (5) Is a school of equal or greater training that is recognized by
7 the corresponding agency in another state or accredited by an
8 agency recognized by the United States Department of Education.

9 (b) “Compensation” means the payment, loan, advance,
10 donation, contribution, deposit, or gift of money or anything of
11 value.

12 (c) “Massage therapist,” “bodyworker,” “bodywork therapist,”
13 or “massage and bodywork therapist” means a person who is
14 certified by the California Massage Therapy Council under
15 subdivision (c) of Section 4601 and who administers massage for
16 compensation.

17 (d) “Massage practitioner,” “bodywork practitioner,” or
18 “massage and bodywork practitioner” means a person who is
19 certified by the California Massage Therapy Council under
20 subdivision (b) of Section 4601 and who administers massage for
21 compensation.

22 (e) “Council” means the California Massage Therapy Council
23 created pursuant to this chapter, which shall be a nonprofit
24 organization exempt from taxation under Section 501(c)(3) of Title
25 26 of the United States Code. The council may commence activities
26 as authorized by this section once it has submitted a request to the
27 Internal Revenue Service seeking this exemption. Whenever the
28 term “organization” is used in this chapter, it shall mean the
29 council, except where the context indicates otherwise.

30 (f) “Registered school” means a school approved by the council
31 that meets minimum standards for training and curriculum in
32 massage and related subjects and that either is approved by the
33 Bureau for Private Postsecondary Education or the Department of
34 Consumer Affairs, or is an institution accredited by the senior
35 commission or the junior commission of the Western Association
36 of Schools and Colleges as defined in paragraph (3) of subdivision
37 (a), is a college or university of the state higher education system
38 as defined in Section 100850 of the Education Code, or is a school
39 of equal or greater training that is approved by the corresponding
40 agency in another state.

1 (g) For purposes of this chapter, the terms “massage” and
2 “bodywork” shall have the same meaning.

3 (h) “*Operator of a massage business*” means a person, whether
4 owner or nonowner, who manages or operates a massage business.

5 SEC. 23. Section 4601 of the Business and Professions Code
6 is amended to read:

7 4601. (a) The council shall issue a certificate under this chapter
8 to an applicant who satisfies the requirements of this chapter.

9 (b) (1) In order to obtain certification as a massage practitioner,
10 an applicant shall submit a written application and provide the
11 council with satisfactory evidence that he or she meets all of the
12 following requirements:

13 (A) The applicant is 18 years of age or older.

14 (B) The applicant has successfully completed, at a single
15 approved school, curricula in massage and related subjects totaling
16 a minimum of 250 hours, *or the credit unit equivalent*, that
17 incorporates appropriate school assessment of student knowledge
18 and skills. Included in the hours shall be instruction addressing
19 anatomy and physiology, contraindications, health and hygiene,
20 and business and ethics, with at least 100 hours of the required
21 minimum 250 hours devoted to these curriculum areas.

22 (C) All fees required by the council have been paid.

23 (2) New certificates shall not be issued pursuant to this
24 subdivision after December 31, 2015. Certificates issued pursuant
25 to this section or subdivision (a) or (c) of Section 4604 on or before
26 December 31, 2015, shall, after December 31, 2015, be renewed
27 without any additional educational requirements, provided that the
28 certificate holder continues to be qualified pursuant to this chapter.

29 (c) In order to obtain certification as a massage therapist, an
30 applicant shall submit a written application and provide the council
31 with satisfactory evidence that he or she meets all of the following
32 requirements:

33 (1) The applicant is 18 years of age or older.

34 (2) The applicant satisfies at least one of the following
35 requirements:

36 (A) He or she has successfully completed the curricula in
37 massage and related subjects totaling a minimum of 500 hours, *or*
38 *the credit unit equivalent*. Of this 500 hours, a minimum of 250
39 hours shall be from approved schools. The remaining 250 hours
40 required may be secured either from approved or registered schools,

1 or from continuing education providers approved by, or registered
2 with, the council or the Department of Consumer Affairs. After
3 December 31, 2015, applicants may only satisfy the curricula in
4 massage and related subjects from approved schools.

5 (B) The applicant has *successfully completed, at a single*
6 *approved school, a curricula in massage and related subjects*
7 *totaling a minimum of 250 hours that incorporates appropriate*
8 *school assessment of student knowledge and skills. Included in the*
9 *hours shall be instruction addressing anatomy and physiology,*
10 *contraindications, health and hygiene, and business and ethics,*
11 *with at least 100 hours of the required minimum 250 hours devoted*
12 *to these curriculum areas. The applicant has also passed a massage*
13 and bodywork competency assessment examination that meets
14 generally recognized psychometric principles and standards, and
15 that is approved by the board. The successful completion of this
16 examination may have been accomplished before the date the
17 council is authorized by this chapter to begin issuing certificates.

18 (3) All fees required by the council have been paid.

19 (d) The council shall issue a certificate to an applicant who
20 meets the other qualifications of this chapter and holds a current
21 and valid registration, certification, or license from any other state
22 whose licensure requirements meet or exceed those defined within
23 this chapter. The council shall have discretion to give credit for
24 comparable academic work completed by an applicant in a program
25 outside of California.

26 (e) An applicant applying for a massage therapist certificate
27 shall file with the council a written application provided by the
28 council, showing to the satisfaction of the council that he or she
29 meets all of the requirements of this chapter.

30 (f) Any certification issued under this chapter shall be subject
31 to renewal every two years in a manner prescribed by the council,
32 and shall expire unless renewed in that manner. The council may
33 provide for the late renewal of a license.

34 (g) (1) The council shall have the responsibility to determine
35 that the school or schools from which an applicant has obtained
36 the education required by this chapter meet the requirements of
37 this chapter. If the council has any reason to question whether or
38 not the applicant received the education that is required by this
39 chapter from the school or schools that the applicant is claiming,

1 the council shall investigate the facts to determine that the applicant
2 received the required education prior to issuing a certificate.

3 (2) For purposes of paragraph (1) and any other provision of
4 this chapter for which the council is authorized to receive factual
5 information as a condition of taking any action, the council shall
6 have the authority to conduct oral interviews of the applicant and
7 others or to make any investigation deemed necessary to establish
8 that the information received is accurate and satisfies any criteria
9 established by this chapter.

10 *(h) The certificate issued pursuant to this chapter, as well as*
11 *any identification card issued by the council, are the exclusive*
12 *property of the council and shall be surrendered to the council by*
13 *any certificate holder who is suspended or revoked.*

14 *SEC. 24. Section 4603.7 of the Business and Professions Code*
15 *is amended to read:*

16 4603.7. A certificate holder shall include the name under which
17 he or she is certified and his or her certificate number in any and
18 all advertising and shall display his or her *original* certificate at
19 his or her place of business. *A certificate holder shall have his or*
20 *her identification card in his or her possession while providing*
21 *massage services.*

22 *SEC. 25. Section 4612 of the Business and Professions Code*
23 *is amended to read:*

24 4612. (a) (1) The holder of a certificate issued pursuant to
25 this chapter shall have the right to practice massage, consistent
26 with this chapter and the qualifications established by his or her
27 certification, in any city, county, or city and county in this state
28 and shall not be required to obtain any other license, permit, or
29 other authorization, except as provided in this section, to engage
30 in that practice.

31 (2) Notwithstanding any other provision of law, a city, county,
32 or city and county shall not enact an ordinance that requires a
33 license, permit, or other authorization to provide massage for
34 compensation by an individual who is certified pursuant to this
35 chapter and who is practicing consistent with the qualifications
36 established by his or her certification, or by a massage business
37 or massage establishment that employs or uses only persons who
38 are certified pursuant to this chapter to provide massage for
39 compensation. No provision of any ordinance enacted by a city,
40 county, or city and county that is in effect before the effective date

1 of this chapter, and that requires a license, permit, or other
2 authorization to provide massage for compensation, may be
3 enforced against an individual who is certified pursuant to this
4 chapter or against a massage business or massage establishment
5 that employs or uses only persons who are certified pursuant to
6 this chapter to provide massage for compensation.

7 (3) Except as provided in subdivision (b), nothing in this section
8 shall be interpreted to prevent a city, county, or city and county
9 from adopting or enforcing any local ordinance that provides for
10 reasonable health and safety requirements for massage
11 establishments or businesses. Subdivision (b) shall not apply to
12 any massage establishment or business that employs or uses
13 persons to provide massage services who are not certified pursuant
14 to this chapter.

15 (b) (1) This subdivision shall apply only to massage
16 establishments or businesses that are sole proprietorships, where
17 the sole proprietor is certified pursuant to this chapter, and to
18 massage establishments or businesses that employ or use only
19 persons certified pursuant to this chapter to provide massage
20 services. For purposes of this subdivision, a sole proprietorship is
21 a business where the owner is the only person employed by that
22 business to provide massage services.

23 (2) (A) Any massage establishment or business described in
24 paragraph (1) shall maintain on its premises evidence for review
25 by local authorities that demonstrates that all persons providing
26 massage services are certified.

27 (B) Nothing in this section shall preclude a city, county, or city
28 and county from including in a local ordinance a provision that
29 requires a business described in paragraph (1) to file copies or
30 provide other evidence of the certificates held by the persons who
31 are providing massage services at the business.

32 (3) A city, county, or city and county may charge a massage
33 business or establishment a business licensing fee, provided that
34 the fee shall be no ~~different~~ *higher* than the fee that is uniformly
35 applied to all other individuals and businesses providing
36 professional services, as defined in subdivision (a) of Section
37 13401 of the Corporations Code.

38 (4) Nothing in this section shall prohibit a city, county, or city
39 and county from enacting ordinances, regulations, rules,
40 requirements, restrictions, land use regulations, moratoria,

1 conditional use permits, or zoning requirements applicable to an
2 individual certified pursuant to this chapter or to a massage
3 establishment or business that uses only individuals who are
4 certified pursuant to this chapter to provide massage for
5 compensation, provided that, unless otherwise exempted by this
6 chapter, these ordinances, regulations, rules, requirements,
7 restrictions, land use regulations, moratoria, conditional use
8 permits, and zoning requirements shall be no different than the
9 requirements that are uniformly applied to all other individuals
10 and businesses providing professional services, as defined in
11 subdivision (a) of Section 13401 of the Corporations Code. No
12 provision of any ordinance, regulation, rule, requirement,
13 restriction, land use regulation, moratoria, conditional use permit,
14 or zoning requirement enacted by a city, county, or city and county
15 that is in effect before the effective date of this chapter, and that
16 is inconsistent with this paragraph, may be enforced against an
17 individual who is certified pursuant to this chapter or against a
18 massage business or massage establishment that uses only
19 individuals who are certified pursuant to this chapter to provide
20 massage for compensation.

21 (5) Local building code or physical facility requirements
22 applicable to massage establishments or businesses shall not require
23 additional restroom, shower, or other facilities that are not
24 uniformly applicable to other professional or personal service
25 businesses, nor shall building or facility requirements be adopted
26 that (A) require unlocked doors when there is no staff available to
27 ensure security for clients and massage staff who are behind closed
28 doors, or (B) require windows that provide a view into massage
29 rooms that interfere with the privacy of clients of the massage
30 business.

31 (6) A city, county, or city and county may adopt reasonable
32 health and safety requirements with respect to massage
33 establishments or businesses, including, but not limited to,
34 requirements for cleanliness of massage rooms, towels and linens,
35 and reasonable attire and personal hygiene requirements for persons
36 providing massage services, provided that nothing in this paragraph
37 shall be interpreted to authorize adoption of local ordinances that
38 impose additional qualifications, such as medical examinations,
39 background checks, or other criteria, upon any person certified
40 pursuant to this chapter.

(7) Nothing in this section shall preclude a city, county, or city and county from doing any of the following:

(A) Requiring an applicant for a business license to operate a massage business or establishment to fill out an application that requests the applicant to provide relevant information, *as long as the information requested is the same as that required of other individuals and professionals providing professional services as defined in subdivision (a) of Section 13401 of the Corporations Code.*

(B) Making reasonable investigations into the information so provided.

(C) Denying or restricting a business license if the applicant has provided materially false information.

(c) An owner or operator of a massage business or establishment ~~subject to subdivision (b)~~ *who is certified pursuant to this chapter* shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. Failure to comply with this chapter may result in revocation of the owner's or operator's certificate in accordance with Section 4603. Nothing in this section shall preclude a local ordinance from authorizing suspension, revocation, or other restriction of a license or permit issued to a massage establishment or business if violations of this chapter, or of the local ordinance, occur on the business premises.

(d) Nothing in this section shall preclude a city, county, or city and county from adopting a local ordinance that is applicable to massage businesses or establishments described in paragraph (1) of subdivision (b) and that does either of the following:

(1) Provides that duly authorized officials of the city, county, or city and county have the right to conduct reasonable inspections, during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements.

(2) Requires an owner or operator to notify the city, county, or city and county of any intention to rename, change management, or convey the business to another person.

(e) Nothing in this chapter shall be construed to preclude a city, county, or city and county from requiring a background check of an owner or operator of a massage establishment who owns 5 percent or more of a massage business or massage establishment and who is not certified pursuant to this chapter. The background

1 check may consist of an application that requires the include, but
2 is not limited to, a criminal background check, including requiring
3 submission of fingerprints for a state and federal criminal
4 background check, submission of an application that requires the
5 applicant to state information, including, but not limited to, the
6 applicant's business, occupation, and employment history for the
7 five 10 years preceding the date of application, the inclusive dates
8 of same, and the name and address of any massage business or
9 other like establishment owned or operated by any person who is
10 subject to the background check requirement of this subdivision.
11 *If a noncertified owner's or operator's background check results*
12 *in a finding that the city, county, or city and county determines is*
13 *relevant to owning or operating a massage establishment, the*
14 *provisions of subdivisions (a) and (b) shall not apply to that*
15 *establishment and the city, county, or city and county may regulate*
16 *that establishment in any manner it deems proper that is in*
17 *accordance with the law.*

18 ~~SEC. 14.~~

19 SEC. 26. Section 4980.04 of the Business and Professions Code
20 is amended to read:

21 4980.04. This chapter shall be known and may be cited as the
22 Licensed Marriage and Family Therapist Act.

23 ~~SEC. 15.~~

24 SEC. 27. Section 4980.34 of the Business and Professions Code
25 is amended to read:

26 4980.34. It is the intent of the Legislature that the board employ
27 its resources for each and all of the following functions:

28 (a) The licensing of marriage and family therapists, clinical
29 social workers, professional clinical counselors, and educational
30 psychologists.

31 (b) The development and administration of licensing
32 examinations and examination procedures, as specified, consistent
33 with prevailing standards for the validation and use of licensing
34 and certification tests. Examinations shall measure knowledge and
35 abilities demonstrably important to the safe, effective practice of
36 the profession.

37 (c) Enforcement of laws designed to protect the public from
38 incompetent, unethical, or unprofessional practitioners.

39 (d) Consumer education.

1 ~~SEC. 16.~~

2 ~~SEC. 28.~~ Section 4980.398 of the Business and Professions
3 Code is amended to read:

4 4980.398. (a) Each applicant who had previously taken and
5 passed the standard written examination but had not passed the
6 clinical vignette examination shall also obtain a passing score on
7 the clinical examination in order to be eligible for licensure.

8 (b) An applicant who had previously failed to obtain a passing
9 score on the standard written examination shall obtain a passing
10 score on the California law and ethics examination and the clinical
11 examination.

12 (c) An applicant who had obtained eligibility for the standard
13 written examination shall take the California law and ethics
14 examination and the clinical examination.

15 (d) This section shall become operative on January 1, 2013.

16 ~~SEC. 17.~~

17 ~~SEC. 29.~~ Section 4980.399 of the Business and Professions
18 Code is amended to read:

19 4980.399. (a) Except as provided in *subdivision (a)* of Section
20 4980.398, each applicant and registrant shall obtain a passing score
21 on a board-administered California law and ethics examination in
22 order to qualify for licensure.

23 (b) A registrant shall participate in a board-administered
24 California law and ethics examination prior to his or her registration
25 renewal.

26 (c) If an applicant fails the California law and ethics
27 examination, he or she may retake the examination, upon payment
28 of the required fees, without further application except as provided
29 in subdivision (d).

30 (d) If a registrant fails to obtain a passing score on the California
31 law and ethics examination described in subdivision (a) within his
32 or her first renewal period on or after the operative date of this
33 section, he or she shall complete, at a minimum, a 12-hour course
34 in California law and ethics in order to be eligible to participate
35 in the California law and ethics examination. Registrants shall only
36 take the 12-hour California law and ethics course once during a
37 renewal period. The 12-hour law and ethics course required by the
38 section shall be taken through a board-approved continuing
39 education provider, a county, state or governmental entity, or a
40 college or university.

1 (e) The board shall not issue a subsequent registration number
2 unless the registrant has passed the California law and ethics
3 examination.

4 (f) This section shall become operative on January 1, 2013.

5 *SEC. 30. Section 4980.43 of the Business and Professions Code*
6 *is amended to read:*

7 4980.43. (a) Prior to applying for licensure examinations, each
8 applicant shall complete experience that shall comply with the
9 following:

10 (1) A minimum of 3,000 hours completed during a period of at
11 least 104 weeks.

12 (2) Not more than 40 hours in any seven consecutive days.

13 (3) Not less than 1,700 hours of supervised experience
14 completed subsequent to the granting of the qualifying master's
15 or doctoral degree.

16 (4) Not more than 1,300 hours of supervised experience obtained
17 prior to completing a master's or doctoral degree.

18 The applicant shall not be credited with more than 750 hours of
19 counseling and direct supervisor contact prior to completing the
20 master's or doctoral degree.

21 (5) No hours of experience may be gained prior to completing
22 either 12 semester units or 18 quarter units of graduate instruction
23 and becoming a trainee except for personal psychotherapy.

24 (6) No hours of experience may be gained more than six years
25 prior to the date the application for examination eligibility was
26 filed, except that up to 500 hours of clinical experience gained in
27 the supervised practicum required by subdivision (c) of Section
28 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
29 of Section 4980.36 shall be exempt from this six-year requirement.

30 (7) Not more than a combined total of 1,000 hours of experience
31 in the following:

32 (A) Direct supervisor contact.

33 (B) Professional enrichment activities. For purposes of this
34 chapter, "professional enrichment activities" include the following:

35 (i) Workshops, seminars, training sessions, or conferences
36 directly related to marriage and family therapy attended by the
37 applicant that are approved by the applicant's supervisor. An
38 applicant shall have no more than 250 hours of verified attendance
39 at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) For all hours gained on or after January 1, 2012, not more than 500 hours of experience in the following:

(A) Experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.

(B) Client centered advocacy.

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For up to 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided.

(11) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(12) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

1 (1) If employed, an intern shall provide the board with copies
2 of the corresponding W-2 tax forms for each year of experience
3 claimed upon application for licensure.

4 (2) If volunteering, an intern shall provide the board with a letter
5 from his or her employer verifying the intern's employment as a
6 volunteer upon application for licensure.

7 (c) ~~Supervision~~—*Except for experience gained pursuant to*
8 *subparagraph (B) of paragraph (7) of subdivision (a), supervision*
9 *shall include at least one hour of direct supervisor contact in each*
10 *week for which experience is credited in each work setting, as*
11 *specified:*

12 (1) A trainee shall receive an average of at least one hour of
13 direct supervisor contact for every five hours of client contact in
14 each setting.

15 (2) An individual supervised after being granted a qualifying
16 degree shall receive at least one additional hour of direct supervisor
17 contact for every week in which more than 10 hours of client
18 contact is gained in each setting. No more than five hours of
19 supervision, whether individual or group, shall be credited during
20 any single week.

21 (3) For purposes of this section, "one hour of direct supervisor
22 contact" means one hour per week of face-to-face contact on an
23 individual basis or two hours per week of face-to-face contact in
24 a group.

25 (4) Direct supervisor contact shall occur within the same week
26 as the hours claimed.

27 (5) Direct supervisor contact provided in a group shall be
28 provided in a group of not more than eight supervisees and in
29 segments lasting no less than one continuous hour.

30 (6) Notwithstanding paragraph (3), an intern working in a
31 governmental entity, a school, a college, or a university, or an
32 institution that is both nonprofit and charitable may obtain the
33 required weekly direct supervisor contact via two-way, real-time
34 videoconferencing. The supervisor shall be responsible for ensuring
35 that client confidentiality is upheld.

36 (7) All experience gained by a trainee shall be monitored by the
37 supervisor as specified by regulation.

38 (d) (1) A trainee may be credited with supervised experience
39 completed in any setting that meets all of the following:

1 (A) Lawfully and regularly provides mental health counseling
2 or psychotherapy.

3 (B) Provides oversight to ensure that the trainee's work at the
4 setting meets the experience and supervision requirements set forth
5 in this chapter and is within the scope of practice for the profession
6 as defined in Section 4980.02.

7 (C) Is not a private practice owned by a licensed marriage and
8 family therapist, a licensed psychologist, a licensed clinical social
9 worker, a licensed physician and surgeon, or a professional
10 corporation of any of those licensed professions.

11 (2) Experience may be gained by the trainee solely as part of
12 the position for which the trainee volunteers or is employed.

13 (e) (1) An intern may be credited with supervised experience
14 completed in any setting that meets both of the following:

15 (A) Lawfully and regularly provides mental health counseling
16 or psychotherapy.

17 (B) Provides oversight to ensure that the intern's work at the
18 setting meets the experience and supervision requirements set forth
19 in this chapter and is within the scope of practice for the profession
20 as defined in Section 4980.02.

21 (2) An applicant shall not be employed or volunteer in a private
22 practice, as defined in subparagraph (C) of paragraph (1) of
23 subdivision (d), until registered as an intern.

24 (3) While an intern may be either a paid employee or a
25 volunteer, employers are encouraged to provide fair remuneration
26 to interns.

27 (4) Except for periods of time during a supervisor's vacation or
28 sick leave, an intern who is employed or volunteering in private
29 practice shall be under the direct supervision of a licensee that has
30 satisfied the requirements of subdivision (g) of Section 4980.03.
31 The supervising licensee shall either be employed by and practice
32 at the same site as the intern's employer, or shall be an owner or
33 shareholder of the private practice. Alternative supervision may
34 be arranged during a supervisor's vacation or sick leave if the
35 supervision meets the requirements of this section.

36 (5) Experience may be gained by the intern solely as part of the
37 position for which the intern volunteers or is employed.

38 (f) Except as provided in subdivision (g), all persons shall
39 register with the board as an intern in order to be credited for
40 postdegree hours of supervised experience gained toward licensure.

1 (g) Except when employed in a private practice setting, all
2 postdegree hours of experience shall be credited toward licensure
3 so long as the applicant applies for the intern registration within
4 90 days of the granting of the qualifying master's or doctoral
5 degree and is thereafter granted the intern registration by the board.

6 (h) Trainees, interns, and applicants shall not receive any
7 remuneration from patients or clients, and shall only be paid by
8 their employers.

9 (i) Trainees, interns, and applicants shall only perform services
10 at the place where their employers regularly conduct business,
11 which may include performing services at other locations, so long
12 as the services are performed under the direction and control of
13 their employer and supervisor, and in compliance with the laws
14 and regulations pertaining to supervision. Trainees and interns
15 shall have no proprietary interest in their employers' businesses
16 and shall not lease or rent space, pay for furnishings, equipment
17 or supplies, or in any other way pay for the obligations of their
18 employers.

19 (j) Trainees, interns, or applicants who provide volunteered
20 services or other services, and who receive no more than a total,
21 from all work settings, of five hundred dollars (\$500) per month
22 as reimbursement for expenses actually incurred by those trainees,
23 interns, or applicants for services rendered in any lawful work
24 setting other than a private practice shall be considered an
25 employee and not an independent contractor. The board may audit
26 applicants who receive reimbursement for expenses, and the
27 applicants shall have the burden of demonstrating that the payments
28 received were for reimbursement of expenses actually incurred.

29 (k) Each educational institution preparing applicants for
30 licensure pursuant to this chapter shall consider requiring, and
31 shall encourage, its students to undergo individual, marital or
32 conjoint, family, or group counseling or psychotherapy, as
33 appropriate. Each supervisor shall consider, advise, and encourage
34 his or her interns and trainees regarding the advisability of
35 undertaking individual, marital or conjoint, family, or group
36 counseling or psychotherapy, as appropriate. Insofar as it is deemed
37 appropriate and is desired by the applicant, the educational
38 institution and supervisors are encouraged to assist the applicant
39 in locating that counseling or psychotherapy at a reasonable cost.

1 *SEC. 31. Section 4980.44 of the Business and Professions Code*
2 *is amended to read:*

3 4980.44. An unlicensed marriage and family therapist intern
4 employed under this chapter shall comply with the following
5 requirements:

6 (a) Possess, at a minimum, a master's degree as specified in
7 Section 4980.36 or 4980.37, as applicable.

8 (b) Register with the board prior to performing any duties,
9 except as otherwise provided in subdivision (g) of Section 4980.43.

10 (c) Prior to performing any professional services, inform each
11 client or patient that he or she is an unlicensed marriage and family
12 therapist registered intern, provide his or her registration number
13 and the name of his or her employer, and indicate whether he or
14 she is under the supervision of a licensed marriage and family
15 therapist, licensed clinical social worker, *licensed professional*
16 *clinical counselor*, licensed psychologist, or a licensed physician
17 and surgeon certified in psychiatry by the American Board of
18 Psychiatry and Neurology.

19 (d) (1) Any advertisement by or on behalf of a marriage and
20 family therapist registered intern shall include, at a minimum, all
21 of the following information:

22 (A) That he or she is a marriage and family therapist registered
23 intern.

24 (B) The intern's registration number.

25 (C) The name of his or her employer.

26 (D) That he or she is supervised by a licensed person.

27 (2) The abbreviation "MFTI" shall not be used in an
28 advertisement unless the title "marriage and family therapist
29 registered intern" appears in the advertisement.

30 *SEC. 32. Section 4980.48 of the Business and Professions Code*
31 *is amended to read:*

32 4980.48. (a) A trainee shall, prior to performing any
33 professional services, inform each client or patient that he or she
34 is an unlicensed marriage and family therapist trainee, provide the
35 name of his or her employer, and indicate whether he or she is
36 under the supervision of a licensed marriage and family therapist,
37 a licensed clinical social worker, *a licensed professional clinical*
38 *counselor*, a licensed psychologist, or a licensed physician certified
39 in psychiatry by the American Board of Psychiatry and Neurology.

(b) Any person that advertises services performed by a trainee shall include the trainee's name, the supervisor's license designation or abbreviation, and the supervisor's license number.

(c) Any advertisement by or on behalf of a marriage and family therapist trainee shall include, at a minimum, all of the following information:

- (1) That he or she is a marriage and family therapist trainee.
- (2) The name of his or her employer.
- (3) That he or she is supervised by a licensed person.

~~SEC. 48.~~

SEC. 33. Section 4980.78 of the Business and Professions Code is amended to read:

4980.78. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2014.

(b) For purposes of Sections 4980.72 and 4980.74, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by an accrediting agency recognized by the United States Department of Education and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling.

(B) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) The applicant completes any units and course content requirements under subdivision (d) of Section 4980.36 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

1 (C) Structured meeting with various consumers and family
2 members of consumers of mental health services to enhance
3 understanding of their experience of mental illness, treatment, and
4 recovery.

5 (D) Instruction in addiction and co-occurring substance abuse
6 and mental health disorders, as specified in subparagraph (I) of
7 paragraph (2) of subdivision (d) of Section 4980.36.

8 (4) The applicant completes an 18-hour course in California
9 law and professional ethics. The content of the course shall include,
10 but not be limited to, advertising, scope of practice, scope of
11 competence, treatment of minors, confidentiality, dangerous
12 patients, psychotherapist-patient privilege, recordkeeping, patient
13 access to records, ~~the Health Insurance Portability and~~
14 ~~Accountability Act~~ *state and federal laws relating to confidentiality*
15 *of patient health information*, dual relationships, child abuse, elder
16 and dependent adult abuse, online therapy, insurance
17 reimbursement, civil liability, disciplinary actions and
18 unprofessional conduct, ethics complaints and ethical standards,
19 termination of therapy, standards of care, relevant family law,
20 therapist disclosures to patients, differences in legal and ethical
21 standards in different types of work settings, and licensing law
22 and licensing process.

23 (5) The applicant's degree title need not be identical to that
24 required by subdivision (b) of Section 4980.36.

25 ~~SEC. 19.~~

26 *SEC. 34.* Section 4980.80 of the Business and Professions Code
27 is amended to read:

28 4980.80. (a) This section applies to persons who apply for
29 licensure between January 1, 2010, and December 31, 2013,
30 inclusive.

31 (b) The board may issue a license to a person who, at the time
32 of application, holds a valid license issued by a board of marriage
33 counselor examiners, marriage therapist examiners, or
34 corresponding authority of any state, if all of the following
35 requirements are satisfied:

36 (1) The person has held that license for at least two years
37 immediately preceding the date of application.

38 (2) The education and supervised experience requirements are
39 substantially the equivalent of this chapter.

40 (3) The person complies with Section 4980.76, if applicable.

1 (4) The person successfully completes the board administered
2 licensing examinations as specified by subdivision (d) of Section
3 4980.40 and pays the fees specified.

4 (5) The person completes all of the following coursework or
5 training:

6 (A) (i) An applicant who completed a two semester or three
7 quarter unit course in law and professional ethics for marriage and
8 family therapists that does not meet the requirements of Section
9 4980.41 as part of his or her qualifying degree shall complete an
10 18-hour course in California law and professional ethics that
11 includes, but is not limited to, the following subjects: advertising,
12 scope of practice, scope of competence, treatment of minors,
13 confidentiality, dangerous patients, psychotherapist-patient
14 privilege, recordkeeping, patient access to records, ~~requirements~~
15 ~~of the Health Insurance Portability and Accountability Act of 1996,~~
16 *state and federal laws relating to the confidentiality of patient*
17 *health information*, dual relationships, child abuse, elder and
18 dependent adult abuse, online therapy, insurance reimbursement,
19 civil liability, disciplinary actions and unprofessional conduct,
20 ethics complaints and ethical standards, termination of therapy,
21 standards of care, relevant family law, and therapist disclosures
22 to patients.

23 (ii) An applicant who has not completed a two semester or three
24 quarter unit course in law and professional ethics for marriage and
25 family therapists that included areas of study as specified in Section
26 4980.41 as part of his or her qualifying degree, shall complete a
27 two semester or three quarter unit course in California law and
28 professional ethics that includes, at minimum, the areas of study
29 specified in Section 4980.41.

30 (B) A minimum of seven contact hours of training or coursework
31 in child abuse assessment and reporting as specified in Section 28
32 and any regulations promulgated thereunder.

33 (C) A minimum of 10 contact hours of training or coursework
34 in human sexuality as specified in Section 25 and any regulations
35 promulgated thereunder.

36 (D) A minimum of 15 contact hours of training or coursework
37 in alcoholism and other chemical substance dependency as
38 specified by regulation.

39 (E) (i) Instruction in spousal or partner abuse assessment,
40 detection, and intervention. This instruction may be taken either

1 in fulfillment of other requirements for licensure or in a separate
2 course.

3 (ii) A minimum of 15 contact hours of coursework or training
4 in spousal or partner abuse assessment, detection, and intervention
5 strategies.

6 (F) A minimum of a two semester or three quarter unit survey
7 course in psychological testing. This course may be taken either
8 in fulfillment of other requirements for licensure or in a separate
9 course.

10 (G) A minimum of a two semester or three quarter unit survey
11 course in psychopharmacology. This course may be taken either
12 in fulfillment of other requirements for licensure or in a separate
13 course.

14 (H) With respect to human sexuality, alcoholism and other
15 chemical substance dependency, spousal or partner abuse
16 assessment, detection, and intervention, psychological testing, and
17 psychopharmacology, the board may accept training or coursework
18 acquired out of state.

19 (c) This section shall remain in effect only until January 1, 2014,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2014, deletes or extends that date.

22 ~~SEC. 20.~~

23 *SEC. 35.* Section 4984.4 of the Business and Professions Code
24 is amended to read:

25 4984.4. A license that is not renewed within three years after
26 its expiration may not be renewed, restored, reinstated, or reissued;
27 however, the former licensee may apply for and obtain a new
28 license if the following criteria are satisfied:

29 (a) No fact, circumstance, or condition exists that, if the license
30 were issued, would constitute grounds for its revocation or
31 suspension.

32 (b) He or she submits an application for examination eligibility
33 and the fee for that application.

34 (c) He or she takes and passes the current licensing
35 examinations.

36 (d) He or she submits the fee for initial license issuance.

37 (e) He or she complies with the fingerprint requirements
38 established by board regulation.

~~SEC. 21.~~

SEC. 36. Section 4989.16 of the Business and Professions Code is amended to read:

4989.16. (a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Practice Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

~~SEC. 22.~~

SEC. 37. Section 4989.42 of the Business and Professions Code is amended to read:

4989.42. A license that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. A former licensee may apply for a new license if he or she satisfies all of the following requirements:

(a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for its revocation or suspension.

(b) Payment of the fees that would be required if he or she were applying for a license for the first time.

(c) Passage of the current licensure examination.

(d) He or she complies with the fingerprint requirements established by board regulation.

~~SEC. 23.~~

SEC. 38. Section 4992.07 of the Business and Professions Code is amended to read:

4992.07. (a) An applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.

(b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing

1 score on the California law and ethics examination and the clinical
2 examination.

3 (c) An applicant who had obtained eligibility for the standard
4 written examination shall take the California law and ethics
5 examination and the clinical examination.

6 (d) This section shall become operative on January 1, 2013.

7 ~~SEC. 24.~~

8 *SEC. 39.* Section 4992.09 of the Business and Professions Code
9 is amended to read:

10 4992.09. (a) Except as provided in *subdivision (a)* of Section
11 4992.07, an applicant and registrant shall obtain a passing score
12 on a board-administered California law and ethics examination in
13 order to qualify for licensure.

14 (b) A registrant shall participate in a board-administered
15 California law and ethics examination prior to his or her registration
16 renewal.

17 (c) If an applicant fails the California law and ethics
18 examination, he or she may retake the examination, upon payment
19 of the required fees, without further application except for as
20 provided in subdivision (d).

21 (d) If a registrant fails to obtain a passing score on the California
22 law and ethics examination described in subdivision (a) within his
23 or her first renewal period on or after the operative date of this
24 section, he or she shall complete, at a minimum, a 12-hour course
25 in California law and ethics in order to be eligible to participate
26 in the California law and ethics examination. Registrants shall only
27 take the 12-hour California law and ethics course once during a
28 renewal period. The 12-hour law and ethics course required by the
29 section shall be taken through a board-approved continuing
30 education provider, a county, state or governmental entity, or a
31 college or university.

32 (e) The board shall not issue a subsequent registration number
33 unless the registrant has passed the California law and ethics
34 examination.

35 (f) This section shall become operative on January 1, 2013.

36 ~~SEC. 25.~~

37 *SEC. 40.* Section 4996.6 of the Business and Professions Code
38 is amended to read:

1 4996.6. (a) Licenses issued under this chapter shall expire no
2 more than 24 months after the issue date. The expiration date of
3 the original license shall be set by the board.

4 (b) To renew an unexpired license, the licensee shall, on or
5 before the expiration date of the license, complete the following
6 actions:

7 (1) Apply for a renewal on a form prescribed by the board.

8 (2) Pay a two-year renewal fee prescribed by the board.

9 (3) Certify compliance with the continuing education
10 requirements set forth in Section 4996.22.

11 (4) Notify the board whether he or she has been convicted, as
12 defined in Section 490, of a misdemeanor or felony, or whether
13 any disciplinary action has been taken by any regulatory or
14 licensing board in this or any other state, subsequent to the
15 licensee's last renewal.

16 (c) To renew an expired license within three years of its
17 expiration, the licensee shall, as a condition precedent to renewal,
18 complete all of the actions described in subdivision (b) and pay a
19 delinquency fee.

20 (d) A license that is not renewed within three years after its
21 expiration may not be renewed, restored, reinstated, or reissued
22 thereafter; however, the former licensee may apply for and obtain
23 a new license if he or she satisfies all of the following requirements:

24 (1) No fact, circumstance, or condition exists that, if the license
25 were issued, would justify its revocation or suspension.

26 (2) He or she submits an application for examination eligibility.

27 (3) He or she takes and passes the current licensing
28 examinations.

29 (4) He or she submits the fees for examination eligibility and
30 for initial license issuance.

31 (5) He or she complies with the fingerprint requirements
32 established by board regulation.

33 ~~SEC. 26.~~

34 *SEC. 41.* Section 4999.22 of the Business and Professions Code
35 is amended to read:

36 4999.22. (a) Nothing in this chapter shall prevent qualified
37 persons from doing work of a psychosocial nature consistent with
38 the standards and ethics of their respective professions. However,
39 these qualified persons shall not hold themselves out to the public
40 by any title or description of services incorporating the words

1 “licensed professional clinical counselor” and shall not state that
2 they are licensed to practice professional clinical counseling, unless
3 they are otherwise licensed to provide professional clinical
4 counseling services.

5 (b) Nothing in this chapter shall be construed to constrict, limit,
6 or withdraw provisions of the Medical Practice Act, the Clinical
7 Social Worker Practice Act, the Nursing Practice Act, the
8 Psychology Licensing Law, or the Licensed Marriage and Family
9 Therapist Act.

10 (c) This chapter shall not apply to any priest, rabbi, or minister
11 of the gospel of any religious denomination who performs
12 counseling services as part of his or her pastoral or professional
13 duties, or to any person who is admitted to practice law in this
14 state, or who is licensed to practice medicine, who provides
15 counseling services as part of his or her professional practice.

16 (d) This chapter shall not apply to an employee of a
17 governmental entity or a school, college, or university, or of an
18 institution both nonprofit and charitable, if his or her practice is
19 performed solely under the supervision of the entity, school,
20 college, university, or institution by which he or she is employed,
21 and if he or she performs those functions as part of the position
22 for which he or she is employed.

23 (e) All persons registered as interns or licensed under this
24 chapter shall not be exempt from this chapter or the jurisdiction
25 of the board.

26 ~~SEC. 27:~~

27 *SEC. 42.* Section 4999.32 of the Business and Professions Code
28 is amended to read:

29 4999.32. (a) This section shall apply to applicants for
30 examination eligibility or registration who begin graduate study
31 before August 1, 2012, and complete that study on or before
32 December 31, 2018. Those applicants may alternatively qualify
33 under paragraph (2) of subdivision (a) of Section 4999.33.

34 (b) To qualify for examination eligibility or registration,
35 applicants shall possess a master’s or doctoral degree that is
36 counseling or psychotherapy in content and that meets the
37 requirements of this section, obtained from an accredited or
38 approved institution, as defined in Section 4999.12. For purposes
39 of this subdivision, a degree is “counseling or psychotherapy in
40 content” if it contains the supervised practicum or field study

1 experience described in paragraph (3) of subdivision (c) and, except
2 as provided in subdivision (d), the coursework in the core content
3 areas listed in subparagraphs (A) to (I), inclusive, of paragraph (1)
4 of subdivision (c).

5 (c) The degree described in subdivision (b) shall contain not
6 less than 48 graduate semester or 72 graduate quarter units of
7 instruction, which shall, except as provided in subdivision (d),
8 include all of the following:

9 (1) The equivalent of at least three semester units or four and
10 one-half quarter units of graduate study in each of following core
11 content areas:

12 (A) Counseling and psychotherapeutic theories and techniques,
13 including the counseling process in a multicultural society, an
14 orientation to wellness and prevention, counseling theories to assist
15 in selection of appropriate counseling interventions, models of
16 counseling consistent with current professional research and
17 practice, development of a personal model of counseling, and
18 multidisciplinary responses to crises, emergencies, and disasters.

19 (B) Human growth and development across the lifespan,
20 including normal and abnormal behavior and an understanding of
21 developmental crises, disability, psychopathology, and situational
22 and environmental factors that affect both normal and abnormal
23 behavior.

24 (C) Career development theories and techniques, including
25 career development decisionmaking models and interrelationships
26 among and between work, family, and other life roles and factors,
27 including the role of multicultural issues in career development.

28 (D) Group counseling theories and techniques, including
29 principles of group dynamics, group process components,
30 developmental stage theories, therapeutic factors of group work,
31 group leadership styles and approaches, pertinent research and
32 literature, group counseling methods, and evaluation of
33 effectiveness.

34 (E) Assessment, appraisal, and testing of individuals, including
35 basic concepts of standardized and nonstandardized testing and
36 other assessment techniques, norm-referenced and
37 criterion-referenced assessment, statistical concepts, social and
38 cultural factors related to assessment and evaluation of individuals
39 and groups, and ethical strategies for selecting, administering, and
40 interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience, or the equivalent,

1 in a clinical setting that provides a range of professional clinical
2 counseling experience, including the following:

- 3 (A) Applied psychotherapeutic techniques.
- 4 (B) Assessment.
- 5 (C) Diagnosis.
- 6 (D) Prognosis.
- 7 (E) Treatment.
- 8 (F) Issues of development, adjustment, and maladjustment.
- 9 (G) Health and wellness promotion.
- 10 (H) Other recognized counseling interventions.
- 11 (I) A minimum of 150 hours of face-to-face supervised clinical
12 experience counseling individuals, families, or groups.

13 (d) (1) An applicant whose degree is deficient in no more than
14 two of the required areas of study listed in subparagraphs (A) to
15 (I), inclusive, of paragraph (1) of subdivision (c) may satisfy those
16 deficiencies by successfully completing post-master's or
17 postdoctoral degree coursework at an accredited or approved
18 institution, as defined in Section 4999.12.

19 (2) Coursework taken to meet deficiencies in the required areas
20 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
21 (1) of subdivision (c) shall be the equivalent of three semester units
22 or four and one-half quarter units of study.

23 (3) The board shall make the final determination as to whether
24 a degree meets all requirements, including, but not limited to,
25 course requirements, regardless of accreditation.

26 (e) In addition to the degree described in this section, or as part
27 of that degree, an applicant shall complete the following
28 coursework or training prior to registration as an intern:

29 (1) A minimum of 15 contact hours of instruction in alcoholism
30 and other chemical substance abuse dependency, as specified by
31 regulation.

32 (2) A minimum of 10 contact hours of training or coursework
33 in human sexuality as specified in Section 25, and any regulations
34 promulgated thereunder.

35 (3) A two semester unit or three quarter unit survey course in
36 psychopharmacology.

37 (4) A minimum of 15 contact hours of instruction in spousal or
38 partner abuse assessment, detection, and intervention strategies,
39 including knowledge of community resources, cultural factors,
40 and same gender abuse dynamics.

1 (5) A minimum of seven contact hours of training or coursework
2 in child abuse assessment and reporting as specified in Section 28
3 and any regulations adopted thereunder.

4 (6) A minimum of 18 contact hours of instruction in California
5 law and professional ethics for professional clinical counselors
6 that includes, but is not limited to, instruction in advertising, scope
7 of practice, scope of competence, treatment of minors,
8 confidentiality, dangerous clients, psychotherapist-client privilege,
9 recordkeeping, client access to records, dual relationships, child
10 abuse, elder and dependent adult abuse, online therapy, insurance
11 reimbursement, civil liability, disciplinary actions and
12 unprofessional conduct, ethics complaints and ethical standards,
13 termination of therapy, standards of care, relevant family law,
14 therapist disclosures to clients, and state and federal laws related
15 to confidentiality of patient health information. When coursework
16 in a master's or doctoral degree program is acquired to satisfy this
17 requirement, it shall be considered as part of the 48 semester unit
18 or 72 quarter unit requirement in subdivision (c).

19 (7) A minimum of 10 contact hours of instruction in aging and
20 long-term care, which may include, but is not limited to, the
21 biological, social, and psychological aspects of aging. On and after
22 January 1, 2012, this coursework shall include instruction on the
23 assessment and reporting of, as well as treatment related to, elder
24 and dependent adult abuse and neglect.

25 (8) A minimum of 15 contact hours of instruction in crisis or
26 trauma counseling, including multidisciplinary responses to crises,
27 emergencies, or disasters, and brief, intermediate, and long-term
28 approaches.

29 (f) This section shall remain in effect only until January 1, 2019,
30 and as of that date is repealed, unless a later enacted statute that
31 is enacted before January 1, 2019, deletes or extends that date.

32 ~~SEC. 28.~~

33 *SEC. 43.* Section 4999.45 of the Business and Professions
34 Code, as amended by Section 32 of Chapter 387 of the Statutes of
35 2011, is repealed.

36 ~~SEC. 29.~~

37 *SEC. 44.* Section 4999.45 of the Business and Professions
38 Code, as added by Section 33 of Chapter 387 of the Statutes of
39 2011, is amended to read:

40 4999.45. (a) An intern employed under this chapter shall:

1 (1) Not perform any duties, except for those services provided
2 as a clinical counselor trainee, until registered as an intern.

3 (2) Not be employed or volunteer in a private practice until
4 registered as an intern.

5 (3) Inform each client prior to performing any professional
6 services that he or she is unlicensed and under supervision.

7 (4) Renew annually for a maximum of five years after initial
8 registration with the board.

9 (b) When no further renewals are possible, an applicant may
10 apply for and obtain a new intern registration if the applicant meets
11 the educational requirements for registration in effect at the time
12 of the application for a new intern registration and has passed the
13 California law and ethics examination described in Section
14 4999.53. An applicant issued a subsequent intern registration
15 pursuant to this subdivision may be employed or volunteer in any
16 allowable work setting except private practice.

17 *SEC. 45. Section 4999.46 of the Business and Professions*
18 *Code, as added by Section 35 of Chapter 387 of the Statutes of*
19 *2011, is amended to read:*

20 4999.46. (a) To qualify for the licensure examination specified
21 by paragraph (2) of subdivision (a) of Section 4999.53, applicants
22 shall complete clinical mental health experience under the general
23 supervision of an approved supervisor as defined in Section
24 4999.12.

25 (b) The experience shall include a minimum of 3,000 postdegree
26 hours of supervised clinical mental health experience related to
27 the practice of professional clinical counseling, performed over a
28 period of not less than two years (104 weeks), which shall include:

29 (1) Not more than 40 hours in any seven consecutive days.

30 (2) Not less than 1,750 hours of direct counseling with
31 individuals or groups in a setting described in Section 4999.44
32 using a variety of psychotherapeutic techniques and recognized
33 counseling interventions within the scope of practice of licensed
34 professional clinical counselors.

35 (3) Not more than 500 hours of experience providing group
36 therapy or group counseling.

37 (4) Not more than 250 hours of experience providing counseling
38 or crisis counseling on the telephone.

1 (5) Not less than 150 hours of clinical experience in a hospital
2 or community mental health setting, *as defined in Section 1820 of*
3 *Title 16 of the California Code of Regulations.*

4 (6) Not more than a combined total of 1,250 hours of experience
5 in the following related activities:

6 (A) Direct supervisor contact.

7 (B) Client centered advocacy.

8 (C) Not more than 250 hours of experience administering tests
9 and evaluating psychological tests of clients, writing clinical
10 reports, writing progress notes, or writing process notes.

11 (D) Not more than 250 hours of verified attendance at
12 workshops, training sessions, or conferences directly related to
13 professional clinical counseling that are approved by the applicant's
14 supervisor.

15 (c) No hours of clinical mental health experience may be gained
16 more than six years prior to the date the application for examination
17 eligibility was filed.

18 (d) An applicant shall register with the board as an intern in
19 order to be credited for postdegree hours of experience toward
20 licensure. Postdegree hours of experience shall be credited toward
21 licensure, provided that the applicant applies for intern registration
22 within 90 days of the granting of the qualifying degree and is
23 registered as an intern by the board.

24 (e) All applicants and interns shall be at all times under the
25 supervision of a supervisor who shall be responsible for ensuring
26 that the extent, kind, and quality of counseling performed is
27 consistent with the training and experience of the person being
28 supervised, and who shall be responsible to the board for
29 compliance with all laws, rules, and regulations governing the
30 practice of professional clinical counseling.

31 (f) Experience obtained under the supervision of a spouse or
32 relative by blood or marriage shall not be credited toward the
33 required hours of supervised experience. Experience obtained
34 under the supervision of a supervisor with whom the applicant has
35 had or currently has a personal, professional, or business
36 relationship that undermines the authority or effectiveness of the
37 supervision shall not be credited toward the required hours of
38 supervised experience.

1 (g) Supervision shall include at least one hour of direct
2 supervisor contact in each week for which experience is credited
3 in each work setting.

4 (1) No more than five hours of supervision, whether individual
5 or group, shall be credited during any single week.

6 (2) An intern shall receive at least one additional hour of direct
7 supervisor contact for every week in which more than 10 hours of
8 face-to-face psychotherapy is performed in each setting in which
9 experience is gained.

10 (3) For purposes of this section, “one hour of direct supervisor
11 contact” means one hour of face-to-face contact on an individual
12 basis or two hours of face-to-face contact in a group of not more
13 than eight persons in segments lasting no less than one continuous
14 hour.

15 (4) Notwithstanding paragraph (3), an intern working in a
16 governmental entity, a school, a college, or a university, or an
17 institution that is both nonprofit and charitable, may obtain the
18 required weekly direct supervisor contact via two-way, real-time
19 videoconferencing. The supervisor shall be responsible for ensuring
20 that client confidentiality is upheld.

21 (h) This section shall become operative on January 1, 2013.

22 ~~SEC. 30.~~

23 *SEC. 46.* Section 4999.57 of the Business and Professions Code
24 is amended to read:

25 4999.57. (a) This section applies to a person who applies for
26 examination eligibility or registration between January 1, 2011,
27 and December 31, 2013, inclusive, who does not hold a license
28 described in subdivision (a) of Section 4999.58.

29 (b) Experience gained outside of California shall be accepted
30 toward the licensure requirements if it is substantially equivalent
31 to that required by this chapter, if the applicant complies with
32 Section 4999.40, if applicable, and if the applicant has gained a
33 minimum of 250 hours of supervised experience in direct
34 counseling within California while registered as an intern with the
35 board.

36 (c) Education gained while residing outside of California shall
37 be accepted toward the licensure requirements if it is substantially
38 equivalent to the education requirements of this chapter, *and* if the
39 applicant has completed the training or coursework required under
40 subdivision (e) of Section 4999.32, which includes, in addition to

1 the course described in subparagraph (I) of paragraph (1) of
2 subdivision (c) of Section 4999.32, an 18-hour course in California
3 law and professional ethics for professional clinical counselors.

4 (d) For purposes of this section, the board may, in its discretion,
5 accept education as substantially equivalent if the applicant's
6 education meets the requirements of Section 4999.32. If the
7 applicant's degree does not contain the content or the overall units
8 required by Section 4999.32, the board may, in its discretion, accept
9 the applicant's education as substantially equivalent if the following
10 criteria are satisfied:

11 (1) The applicant's degree contains the required number of
12 practicum units under paragraph (3) of subdivision (c) of Section
13 4999.32.

14 (2) The applicant remediates his or her specific deficiency by
15 completing the course content and units required by Section
16 4999.32.

17 (3) The applicant's degree otherwise complies with this section.

18 (e) This section shall become inoperative on January 1, 2014,
19 and as of that date is repealed, unless a later enacted statute, which
20 is enacted before January 1, 2014, deletes or extends that date.

21 ~~SEC. 31.~~

22 *SEC. 47.* Section 4999.58 of the Business and Professions Code
23 is amended to read:

24 4999.58. (a) This section applies to a person who applies for
25 examination eligibility between January 1, 2011, and December
26 31, 2013, inclusive, and who meets both of the following
27 requirements:

28 (1) At the time of application, holds a valid license as a
29 professional clinical counselor, or other counseling license that
30 allows the applicant to independently provide clinical mental health
31 services, in another jurisdiction of the United States.

32 (2) Has held the license described in paragraph (1) for at least
33 two years immediately preceding the date of application.

34 (b) The board may issue a license to a person described in
35 subdivision (a) if all of the following requirements are satisfied:

36 (1) The education and supervised experience requirements of
37 the other jurisdiction are substantially the equivalent of this chapter,
38 as described in subdivision (e) and in Section 4999.46.

39 (2) The person complies with subdivision (b) of Section 4999.40,
40 if applicable.

1 (3) The person successfully completes the examinations required
2 by the board pursuant to paragraph (3) of subdivision (a) of Section
3 4999.50.

4 (4) The person pays the required fees.

5 (c) Experience gained outside of California shall be accepted
6 toward the licensure requirements if it is substantially equivalent
7 to that required by this chapter. The board shall consider hours of
8 experience obtained in another state during the six-year period
9 immediately preceding the applicant's initial licensure by that state
10 as a licensed professional clinical counselor.

11 (d) Education gained while residing outside of California shall
12 be accepted toward the licensure requirements if it is substantially
13 equivalent to the education requirements of this chapter, *and* if the
14 applicant has completed the training or coursework required under
15 subdivision (e) of Section 4999.32, which includes, in addition to
16 the course described in subparagraph (I) of paragraph (1) of
17 subdivision (c) of Section 4999.32, an 18-hour course in California
18 law and professional ethics for professional clinical counselors.

19 (e) For purposes of this section, the board may, in its discretion,
20 accept education as substantially equivalent if the applicant's
21 education meets the requirements of Section 4999.32. If the
22 applicant's degree does not contain the content or the overall units
23 required by Section 4999.32, the board may, in its discretion, accept
24 the applicant's education as substantially equivalent if the following
25 criteria are satisfied:

26 (1) The applicant's degree contains the required number of
27 practicum units under paragraph (3) of subdivision (c) of Section
28 4999.32.

29 (2) The applicant remediates his or her specific deficiency by
30 completing the course content and units required by Section
31 4999.32.

32 (3) The applicant's degree otherwise complies with this section.

33 (f) This section shall become inoperative on January 1, 2014,
34 and as of that date is repealed, unless a later enacted statute, which
35 is enacted before January 1, 2014, deletes or extends that date.

36 ~~SEC. 32.~~

37 *SEC. 48.* Section 4999.59 of the Business and Professions Code
38 is amended to read:

39 4999.59. (a) This section applies to a person who applies for
40 examination eligibility or registration between January 1, 2011,

1 and December 31, 2013, inclusive, who meets both of the following
2 requirements:

3 (1) At the time of application, holds a valid license described
4 in paragraph (1) of subdivision (a) of Section 4999.58.

5 (2) Has held the license described in paragraph (1) for less than
6 two years immediately preceding the date of application.

7 (b) Experience gained outside of California shall be accepted
8 toward the licensure requirements if it is substantially equivalent
9 to that required by this chapter, if the applicant complies with
10 Section 4999.40, if applicable, and if the applicant has gained a
11 minimum of 250 hours of supervised experience in direct
12 counseling within California while registered as an intern with the
13 board. The board shall consider hours of experience obtained in
14 another state during the six-year period immediately preceding the
15 applicant's initial licensure in that state as a professional clinical
16 counselor.

17 (c) Education gained while residing outside of California shall
18 be accepted toward the licensure requirements if it is substantially
19 equivalent to the education requirements of this chapter, *and* if the
20 applicant has completed the training or coursework required under
21 subdivision (e) of Section 4999.32, which includes, in addition to
22 the course described in subparagraph (I) of paragraph (1) of
23 subdivision (c) of Section 4999.32, an 18-hour course in California
24 law and professional ethics for professional clinical counselors.

25 (d) For purposes of this section, the board may, in its discretion,
26 accept education as substantially equivalent if the applicant's
27 education meets the requirements of Section 4999.32. If the
28 applicant's degree does not contain the content or the overall units
29 required by Section 4999.32, the board may, in its discretion, accept
30 the applicant's education as substantially equivalent if the following
31 criteria are satisfied:

32 (1) The applicant's degree contains the required number of
33 practicum units under paragraph (3) of subdivision (c) of Section
34 4999.32.

35 (2) The applicant remediates his or her specific deficiency by
36 completing the course content and units required by Section
37 4999.32.

38 (3) The applicant's degree otherwise complies with this section.

(e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

SEC. 49. Section 4999.62 of the Business and Professions Code is amended to read:

4999.62. (a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2014.

(b) For purposes of Sections 4999.60 and 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face counseling.

(B) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(2) The applicant completes any units and course content requirements under Section 4999.33 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

(C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(D) Instruction in behavioral addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (K) of paragraph (1) of subdivision (c) of Section 4999.33.

(4) The applicant completes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section

1 4999.33, an 18-hour course in California law and professional
2 ethics that includes, but is not limited to, instruction in advertising,
3 scope of practice, scope of competence, treatment of minors,
4 confidentiality, dangerous clients, psychotherapist-client privilege,
5 recordkeeping, client access to records, ~~the Health Insurance~~
6 ~~Portability and Accountability Act~~ *state and federal laws relating*
7 *to confidentiality of patient health information*, dual relationships,
8 child abuse, elder and dependent adult abuse, online therapy,
9 insurance reimbursement, civil liability, disciplinary actions and
10 unprofessional conduct, ethics complaints and ethical standards,
11 termination of therapy, standards of care, relevant family law, and
12 therapist disclosures to clients.

13 *SEC. 50. Section 4999.76 of the Business and Professions Code*
14 *is amended to read:*

15 4999.76. (a) ~~(1) Except as provided in paragraph (2) and~~
16 ~~subdivision (c), the board shall not renew any license pursuant to~~
17 ~~this chapter unless the applicant certifies to the board, on a form~~
18 ~~prescribed by the board, that he or she has completed not less than~~
19 ~~36 hours of approved continuing education in or relevant to the~~
20 ~~field of professional clinical counseling in the preceding two years,~~
21 ~~as determined by the board.~~

22 ~~(2) Except as provided in subdivision (c), the board shall not~~
23 ~~renew a license issued pursuant to paragraph (1) of subdivision~~
24 ~~(a) of Section 4999.54 unless the applicant certifies to the board,~~
25 ~~on a form prescribed by the board, that he or she has completed~~
26 ~~not less than 18 hours of approved continuing education in or~~
27 ~~relevant to the field of professional clinical counseling in the~~
28 ~~preceding year, as determined by the board. This paragraph shall~~
29 ~~become inoperative on January 1, 2018.~~

30 (b) The board shall have the right to audit the records of any
31 applicant to verify the completion of the continuing education
32 requirement. Applicants shall maintain records of completed
33 continuing education coursework for a minimum of two years and
34 shall make these records available to the board for auditing
35 purposes upon request.

36 (c) The board may establish exceptions from the continuing
37 education requirement of this section for good cause, as defined
38 by the board.

39 (d) The continuing education shall be obtained from one of the
40 following sources:

1 (1) A school, college, or university that is accredited or
2 approved, as defined in Section 4999.12. Nothing in this paragraph
3 shall be construed as requiring coursework to be offered as part
4 of a regular degree program.

5 (2) Other continuing education providers, including, but not
6 limited to, a professional clinical counseling association, a licensed
7 health facility, a governmental entity, a continuing education unit
8 of a four-year institution of higher learning that is accredited or
9 approved, or a mental health professional association, approved
10 by the board.

11 (e) The board shall establish, by regulation, a procedure for
12 approving providers of continuing education courses, and all
13 providers of continuing education, as described in paragraphs (1)
14 and (2) of subdivision (d), shall adhere to procedures established
15 by the board. The board may revoke or deny the right of a provider
16 to offer continuing education coursework pursuant to this section
17 for failure to comply with the requirements of this section or any
18 regulation adopted pursuant to this section.

19 (f) Training, education, and coursework by approved providers
20 shall incorporate one or more of the following:

21 (1) Aspects of the discipline that are fundamental to the
22 understanding or the practice of professional clinical counseling.

23 (2) Significant recent developments in the discipline of
24 professional clinical counseling.

25 (3) Aspects of other disciplines that enhance the understanding
26 or the practice of professional clinical counseling.

27 (g) A system of continuing education for licensed professional
28 clinical counselors shall include courses directly related to the
29 diagnosis, assessment, and treatment of the client population being
30 served.

31 (h) The board shall, by regulation, fund the administration of
32 this section through continuing education provider fees to be
33 deposited in the Behavioral Sciences Fund. The fees related to the
34 administration of this section shall be sufficient to meet, but shall
35 not exceed, the costs of administering the corresponding provisions
36 of this section. For the purposes of this subdivision, a provider of
37 continuing education as described in paragraph (1) of subdivision
38 (d) shall be deemed to be an approved provider.

39 (i) The continuing education requirements of this section shall
40 fully comply with the guidelines for mandatory continuing

1 education established by the Department of Consumer Affairs
2 pursuant to Section 166.

3 ~~SEC. 33.~~

4 *SEC. 51.* Section 4999.90 of the Business and Professions Code
5 is amended to read:

6 4999.90. The board may refuse to issue any registration or
7 license, or may suspend or revoke the registration or license of
8 any intern or licensed professional clinical counselor, if the
9 applicant, licensee, or registrant has been guilty of unprofessional
10 conduct. Unprofessional conduct includes, but is not limited to,
11 the following:

12 (a) The conviction of a crime substantially related to the
13 qualifications, functions, or duties of a licensee or registrant under
14 this chapter. The record of conviction shall be conclusive evidence
15 only of the fact that the conviction occurred. The board may inquire
16 into the circumstances surrounding the commission of the crime
17 in order to fix the degree of discipline or to determine if the
18 conviction is substantially related to the qualifications, functions,
19 or duties of a licensee or registrant under this chapter. A plea or
20 verdict of guilty or a conviction following a plea of nolo contendere
21 made to a charge substantially related to the qualifications,
22 functions, or duties of a licensee or registrant under this chapter
23 shall be deemed to be a conviction within the meaning of this
24 section. The board may order any license or registration suspended
25 or revoked, or may decline to issue a license or registration when
26 the time for appeal has elapsed, or the judgment of conviction has
27 been affirmed on appeal, or, when an order granting probation is
28 made suspending the imposition of sentence, irrespective of a
29 subsequent order under Section 1203.4 of the Penal Code allowing
30 the person to withdraw a plea of guilty and enter a plea of not
31 guilty, or setting aside the verdict of guilty, or dismissing the
32 accusation, information, or indictment.

33 (b) Securing a license or registration by fraud, deceit, or
34 misrepresentation on any application for licensure or registration
35 submitted to the board, whether engaged in by an applicant for a
36 license or registration, or by a licensee in support of any application
37 for licensure or registration.

38 (c) Administering to himself or herself any controlled substance
39 or using any of the dangerous drugs specified in Section 4022, or
40 any alcoholic beverage to the extent, or in a manner, as to be

1 dangerous or injurious to the person applying for a registration or
2 license or holding a registration or license under this chapter, or
3 to any other person, or to the public, or, to the extent that the use
4 impairs the ability of the person applying for or holding a
5 registration or license to conduct with safety to the public the
6 practice authorized by the registration or license. The board shall
7 deny an application for a registration or license or revoke the
8 license or registration of any person, other than one who is licensed
9 as a physician and surgeon, who uses or offers to use drugs in the
10 course of performing licensed professional clinical counseling
11 services.

12 (d) Gross negligence or incompetence in the performance of
13 licensed professional clinical counseling services.

14 (e) Violating, attempting to violate, or conspiring to violate any
15 of the provisions of this chapter or any regulation adopted by the
16 board.

17 (f) Misrepresentation as to the type or status of a license or
18 registration held by the person, or otherwise misrepresenting or
19 permitting misrepresentation of his or her education, professional
20 qualifications, or professional affiliations to any person or entity.

21 (g) Impersonation of another by any licensee, registrant, or
22 applicant for a license or registration, or, in the case of a licensee
23 or registrant, allowing any other person to use his or her license
24 or registration.

25 (h) Aiding or abetting, or employing, directly or indirectly, any
26 unlicensed or unregistered person to engage in conduct for which
27 a license or registration is required under this chapter.

28 (i) Intentionally or recklessly causing physical or emotional
29 harm to any client.

30 (j) The commission of any dishonest, corrupt, or fraudulent act
31 substantially related to the qualifications, functions, or duties of a
32 licensee or registrant.

33 (k) Engaging in sexual relations with a client, or a former client
34 within two years following termination of therapy, soliciting sexual
35 relations with a client, or committing an act of sexual abuse, or
36 sexual misconduct with a client, or committing an act punishable
37 as a sexually related crime, if that act or solicitation is substantially
38 related to the qualifications, functions, or duties of a licensed
39 professional clinical counselor.

1 (l) Performing, or holding oneself out as being able to perform,
2 or offering to perform, or permitting any trainee, applicant, or
3 registrant under supervision to perform, any professional services
4 beyond the scope of the license authorized by this chapter.

5 (m) Failure to maintain confidentiality, except as otherwise
6 required or permitted by law, of all information that has been
7 received from a client in confidence during the course of treatment
8 and all information about the client which is obtained from tests
9 or other means.

10 (n) Prior to the commencement of treatment, failing to disclose
11 to the client or prospective client the fee to be charged for the
12 professional services, or the basis upon which that fee will be
13 computed.

14 (o) Paying, accepting, or soliciting any consideration,
15 compensation, or remuneration, whether monetary or otherwise,
16 for the referral of professional clients. All consideration,
17 compensation, or remuneration shall be in relation to professional
18 clinical counseling services actually provided by the licensee.
19 Nothing in this subdivision shall prevent collaboration among two
20 or more licensees in a case or cases. However, no fee shall be
21 charged for that collaboration, except when disclosure of the fee
22 has been made in compliance with subdivision (n).

23 (p) Advertising in a manner that is false, fraudulent, misleading,
24 or deceptive, as defined in Section 651.

25 (q) Reproduction or description in public, or in any publication
26 subject to general public distribution, of any psychological test or
27 other assessment device, the value of which depends in whole or
28 in part on the naivete of the subject, in ways that might invalidate
29 the test or device.

30 (r) Any conduct in the supervision of a registered intern,
31 associate clinical social worker, or clinical counselor trainee by
32 any licensee that violates this chapter or any rules or regulations
33 adopted by the board.

34 (s) Performing or holding oneself out as being able to perform
35 professional services beyond the scope of one's competence, as
36 established by one's education, training, or experience. This
37 subdivision shall not be construed to expand the scope of the
38 license authorized by this chapter.

39 (t) Permitting a clinical counselor trainee or intern under one's
40 supervision or control to perform, or permitting the clinical

1 counselor trainee or intern to hold himself or herself out as
2 competent to perform, professional services beyond the clinical
3 counselor trainee's or intern's level of education, training, or
4 experience.

5 (u) The violation of any statute or regulation of the standards
6 of the profession, and the nature of the services being rendered,
7 governing the gaining and supervision of experience required by
8 this chapter.

9 (v) Failure to keep records consistent with sound clinical
10 judgment, the standards of the profession, and the nature of the
11 services being rendered.

12 (w) Failure to comply with the child abuse reporting
13 requirements of Section 11166 of the Penal Code.

14 (x) Failing to comply with the elder and dependent adult abuse
15 reporting requirements of Section 15630 of the Welfare and
16 Institutions Code.

17 (y) Repeated acts of negligence.

18 (z) (1) Engaging in an act described in Section 261, 286, 288a,
19 or 289 of the Penal Code with a minor or an act described in
20 Section 288 or 288.5 of the Penal Code regardless of whether the
21 act occurred prior to or after the time the registration or license
22 was issued by the board. An act described in this subdivision
23 occurring prior to the effective date of this subdivision shall
24 constitute unprofessional conduct and shall subject the licensee to
25 refusal, suspension, or revocation of a license under this section.

26 (2) The Legislature hereby finds and declares that protection of
27 the public, and in particular minors, from sexual misconduct by a
28 licensee is a compelling governmental interest, and that the ability
29 to suspend or revoke a license for sexual conduct with a minor
30 occurring prior to the effective date of this section is equally
31 important to protecting the public as is the ability to refuse a license
32 for sexual conduct with a minor occurring prior to the effective
33 date of this section.

34 (aa) Engaging in any conduct that subverts or attempts to subvert
35 any licensing examination or the administration of an examination
36 as described in Section 123.

37 (ab) Revocation, suspension, or restriction by the board of a
38 license, certificate, or registration to practice as a professional
39 clinical counselor, clinical social worker, educational psychologist,
40 professional clinical counselor, or marriage and family therapist.

1 (ac) Failing to comply with the procedures set forth in Section
2 2290.5 when delivering health care via telemedicine.

3 (ad) Willful violation of Chapter 1 (commencing with Section
4 123100) of Part 1 of Division 106 of the Health and Safety Code.

5 ~~SEC. 34.~~

6 *SEC. 52.* Section 4999.106 of the Business and Professions
7 Code is amended to read:

8 4999.106. A license that is not renewed within three years after
9 its expiration may not be renewed, restored, reinstated, or reissued,
10 except that a former licensee may apply for and obtain a new
11 license if he or she complies with all of the following:

12 (a) No fact, circumstance, or condition exists that, if the license
13 were issued, would justify its revocation or suspension.

14 (b) He or she takes and passes the current examinations required
15 for licensing.

16 (c) He or she submits an application for initial licensure.

17 (d) He or she meets the requirements pursuant to Section
18 4999.51.

19 ~~SEC. 35.~~

20 *SEC. 53.* Section 4999.120 of the Business and Professions
21 Code is amended to read:

22 4999.120. The board shall assess fees for the application for
23 and the issuance and renewal of licenses and for the registration
24 of interns to cover administrative and operating expenses of the
25 board related to this chapter. Fees assessed pursuant to this section
26 shall not exceed the following:

27 (a) The fee for the application for examination eligibility shall
28 be up to two hundred fifty dollars (\$250).

29 (b) The fee for the application for intern registration shall be up
30 to one hundred fifty dollars (\$150).

31 (c) The fee for the application for licensure shall be up to one
32 hundred eighty dollars (\$180).

33 (d) The fee for the board-administered clinical examination, if
34 the board chooses to adopt this examination in regulations, shall
35 be up to two hundred fifty dollars (\$250).

36 (e) The fee for the law and ethics examination shall be up to
37 one hundred fifty dollars (\$150).

38 (f) The fee for the examination described in subdivision (b) of
39 Section 4999.54 shall be up to one hundred dollars (\$100).

1 (g) The fee for the issuance of a license shall be up to two
2 hundred fifty dollars (\$250).

3 (h) The fee for annual renewal of an intern registration shall be
4 up to one hundred fifty dollars (\$150).

5 (i) The fee for two-year renewal of licenses shall be up to two
6 hundred fifty dollars (\$250).

7 (j) The fee for issuance of a retired license shall be forty dollars
8 (\$40).

9 (k) The fee for rescoring an examination shall be twenty dollars
10 (\$20).

11 (l) The fee for issuance of a replacement license or registration
12 shall be twenty dollars (\$20).

13 (m) The fee for issuance of a certificate or letter of good standing
14 shall be twenty-five dollars (\$25).

15 ~~SEC. 36. No reimbursement is required by this act pursuant to~~
16 ~~Section 6 of Article XIII B of the California Constitution because~~
17 ~~the only costs that may be incurred by a local agency or school~~
18 ~~district will be incurred because this act creates a new crime or~~
19 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
20 ~~for a crime or infraction, within the meaning of Section 17556 of~~
21 ~~the Government Code, or changes the definition of a crime within~~
22 ~~the meaning of Section 6 of Article XIII B of the California~~
23 ~~Constitution.~~

24 *SEC. 54. No reimbursement is required by this act pursuant*
25 *to Section 6 of Article XIII B of the California Constitution for*
26 *certain costs that may be incurred by a local agency or school*
27 *district because, in that regard, this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

33 *However, if the Commission on State Mandates determines that*
34 *this act contains other costs mandated by the state, reimbursement*
35 *to local agencies and school districts for those costs shall be made*
36 *pursuant to Part 7 (commencing with Section 17500) of Division*
37 *4 of Title 2 of the Government Code.*